

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION

UNITED STATES OF AMERICA PLAINTIFF

VERSUS CIVIL ACTION NO. 3:16-CV-00489-CWR-RHWR

THE HINDS COUNTY BOARD OF SUPERVISORS,  
HINDS COUNTY SHERIFF, ET AL. DEFENDANTS

EVIDENTIARY HEARING, VOLUME 5,  
BEFORE THE HONORABLE CARLTON W. REEVES,  
UNITED STATES DISTRICT COURT JUDGE,  
FEBRUARY 18, 2022,  
JACKSON, MISSISSIPPI

(Appearances noted herein.)

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6 LAURA L. COWALL, ESQ.  
7 HELEN VERA, ESQ.  
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## 9 FOR THE DEFENDANTS:

10 NICHOLAS F. MORISANI, ESQ.  
11 JAMES W. SHELSON, ESQ.  
12 TONY R. GAYLOR, ESQ.  
13 RAYFORD G. CHAMBERS, ESQ.  
14 JOHN C. HALL, II, ESQ.  
15 REUBEN ANDERSON, ESQ.

## 16 ALSO PRESENT:

17 ANTHONY NJOKU  
18 MICHAEL DENAULT  
19 ELIZABETH SIMPSON  
20 DAVID PARRISH  
21 SHERIFF TYREE JONES  
22 LESLIE FAITH JONES  
23 CINDY MOHAN  
24  
25

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IN OPEN COURT, FEBRUARY 18, 2022

THE COURT: You may be seated.

Good morning. I assume there's nothing to take up?

Oh, okay. Ms. Cowall?

MS. COWALL: No, Your Honor.

7                   THE COURT: Okay. Thank you. Yesterday I think I  
8                   asked the parties -- I asked the United States to make sure  
9                   that Major Bryan was here this morning because I did have a  
10                  few questions I wanted to ask her. And I think she's in the  
11                  courtroom; is that correct?

12 Major Bryan, you may return to the stand. Good  
13 morning.

14 THE WITNESS: Good morning.

15 THE COURT: You can remove your mask, and I'll remind  
16 you that you're still under oath, ma'am.

17 THE WITNESS: Yes, sir.

18 THE COURT: And I apologize. I failed to ask you the  
19 other day a couple of questions that I wanted to make sure  
20 that I asked or make sure that they were asked, and they could  
21 have been, but I don't think so from reviewing my notes.

KATHRYN BRYAN,

23 having been previously duly sworn, was examined  
24 and further testified as follows...

## **EXAMINATION**

1       **BY THE COURT:**

2       Q.    But do you recall the instructions -- I mean, have you  
3       spoken with anyone about your testimony?

4       A.    No, sir.

5       Q.    Okay. Has anyone attempted to talk to you about your  
6       testimony?

7       A.    No, sir.

8       Q.    Before you, I think, on your witness table is PX-13.

9       A.    Yes.

10      Q.    Okay. You see it?

11           THE COURT: I'm going to give the parties an  
12       opportunity. She has the Court's Exhibit PX-13. It's in  
13       evidence, and since I don't have the Elmo up here with me, I  
14       have a -- no, I have a copy. PX-13, everybody has it? Okay.

15       BY THE COURT:

16      Q.    Now, Major Bryan, PX-13 I believe is the letter of  
17       resignation. Is that what you have before you?

18      A.    It is.

19      Q.    The letter of resignation that you wrote to Sheriff  
20       Crisler?

21      A.    Yes, sir.

22      Q.    All right. I want to direct your attention to a couple  
23       of things in that particular letter of resignation. I just  
24       want to make sure about some things. In the first paragraph  
25       of that letter, you say, "I was assured from all parties, from

1       sheriffs to County officials."

2           Now, I see sheriffs is plural there. So what, if any,  
3       sheriffs were you referring to in your letter of resignation?

4       A.    Sheriff Vance and Sheriff Crisler.

5       Q.    Okay. And you mentioned -- and you say, "I was assured  
6       from all parties, from sheriffs to County officials."

7           What County officials specifically assured you that they  
8       would have -- you say, "I would have the support."

9           What County officials, if any, did you talk to or who  
10       assured you they would have your support -- or that you would  
11       have their support?

12       A.    This is probably not an all-inclusive list, Your Honor.  
13       Tony Gaylor, Mr. Credell Calhoun, Mr. Stephen Hopkins,  
14       Mr. Kenny Wayne Jones, two or three --

15           MR. ANDERSON: Your Honor, I'm sorry, but I'm not  
16       hearing her.

17           THE COURT: Oh, you're not hearing? Okay.

18           Could you speak up, please. Make sure that mike --  
19       make sure the speaker is turned on.

20           THE WITNESS: Can you hear me now?

21           THE COURT: Hold on.

22           THE WITNESS: Now can you hear me?

23           THE COURT: Yes. Bring the microphone just a little  
24       bit closer. One thing that's a disadvantage to those out  
25       there is that you're turning your attention directly to me.

1 BY THE COURT:

2 Q. But you mentioned Tony Gaylor, Mr. Credell Calhoun,  
3 Mr. Stephen Hopkins. Who is Mr. Stephen Hopkins?

4 A. The assistant administrator for the County.

5 Q. Okay. And you said Mr. Kenny Wayne Jones.

6 A. Yes, sir.

7 Q. He's the current County administrator?

8 A. Yes, sir.

9 Q. Any others?

10 A. Several of the commissioners.

11 Q. When you say "commissioners," are you talking about the  
12 Board of --

13 A. Board of Supervisors.

14 Q. Board of Supervisors?

15 A. Yes, sir. And there were others. Everybody I talked to  
16 offered support, but those are the ones I can think of by name  
17 right now.

18 Q. Okay. Thank you.

19 Now, I know there was testimony, I think, but in that  
20 second paragraph of your resignation, you refer to having  
21 discovered in the last four months a distinct lack of support.  
22 Tell me again, what did you believe was a lack of support for  
23 you to do your duties?

24 A. In general, Your Honor, everything was difficult. Every  
25 request I had, I had to go through so many people and so much

1 administration and so many logistics to get simple things  
2 done.

3 There never seemed to be an opportunity for strategic  
4 planning, long-term planning, short-term planning for jail  
5 improvements, small and large. There was very little  
6 collaboration and, it seemed, very little -- the atmosphere  
7 was resistant, in my opinion, to support the jail. The words  
8 were there. I believe for some the intent was there. But  
9 when it came to actually supporting the jail, there wasn't  
10 enough support to get much done.

11 And I know the pace that it should have taken because I  
12 have fixed jails before. If I hadn't fixed jails before, I  
13 might have presumed that this was the normal pace of things,  
14 but it isn't. And those -- and they -- in my opinion, sir,  
15 they were artificial barriers.

16 My mama always said, "If there was a million dollars  
17 attached to you doing something, if you were going to gain by  
18 doing something, would you put forth more of an effort?" And  
19 it just didn't seem to me that people in general had a good  
20 appreciation for what was happening in the jail even after the  
21 deaths.

22 Q. And that death was the death in October?

23 A. The sum of --

24 Q. Is that -- you said --

25 A. The sum of all deaths up to and including a murder.

1 There still was never a meeting, a strategic plan on if I'm  
2 having difficulties accomplishing things, how can we pave a  
3 way forward to make some of those things happen more  
4 expeditiously or at all?

5 Q. Okay. Now I'm going to get you to turn to page 2 of that  
6 exhibit. Now, I think you -- I'm not sure what all testimony  
7 was about this particular page or pages of the -- of this  
8 particular exhibit, but can you tell me what this is? What is  
9 page 2? Tell me, what is page 2 and the documents associated  
10 with it?

11 A. Yes, sir. So in its entirety, this exhibit was my letter  
12 of resignation.

13 Q. The entire thing?

14 A. The entire thing.

15 Q. Okay.

16 A. I did a cover let- -- knowing that information can be  
17 requested by the public, I wanted to keep the details of it on  
18 a separate document so that if information was requested about  
19 my resignation, the County could offer page 1 and meet that  
20 request, and then I wanted to put in more detail what had  
21 happened, which was about the final straw of me having  
22 difficulty being given the authority to run the jail, that  
23 other entities had their hands in running the jail in a way  
24 that was counter to the way I believed the jail needed to be  
25 run. So page 2 is details for that final event.

1 Q. And that final event, tell me -- I understand what's on  
2 this paper, and I've read it. But for the record, could you  
3 tell me what that -- what you consider that final event to be?

4 A. Yes, sir. So prior to November 8th, prior to this  
5 incident, we had an incident that was almost exactly the same  
6 present itself to the jail, prior to this, that ended very  
7 badly. The same circumstances presented themselves again on  
8 November 8th, and this time it wasn't going to end badly  
9 because all staff involved in this event did things exactly  
10 how they should have. They learned from the first event that  
11 was a catastrophic failure, and they did a really good job  
12 this time with this inmate for this incident.

13 Q. And when you say "they learned from the first event," is  
14 that the event that you described in that last paragraph from  
15 March 2021?

16 A. Yes. Yes, sir.

17 Q. Okay. And do you recall just briefly -- I want to make  
18 sure I'm clear on the event. Is that where a person  
19 presented -- well, tell me, what's that event?

20 A. Well, a person came into booking and later died in  
21 custody in the booking area. It was found that staff didn't  
22 do what they needed to do. This time they did. And after  
23 they did what they needed to do appropriately and in  
24 accordance with their policies, they received a call from  
25 Sheriff Crisler telling them to do something different than

1 what their policies told them to do, and it caused great  
2 consternation with the staff because they knew there was a  
3 conflict between what they were being told by their boss, the  
4 sheriff, and what their policies drove them to do.

5 And this had been occurring with the sheriff's  
6 administration, not with Sheriff Crisler himself. This was an  
7 isolated incident with him. But with that sheriff's  
8 administration, there were people that were either directing  
9 me to do something counter to how I knew the jail should be  
10 run or circumventing me and speaking with my subordinates and  
11 telling them to do things counter to how the jail needed to be  
12 run.

13 Q. But the -- go ahead. I'm sorry. That "sheriff's  
14 administration," you're talking about the Crisler sheriff  
15 administration?

16 A. Yes, sir.

17 Q. All right. It had only been in place, though, for some  
18 time after Sheriff Vance had died. He was made the interim  
19 sheriff by the Board; is that correct?

20 A. Yes, sir.

21 Q. Okay. And he was interim sheriff on the date of this  
22 letter, November the 10th -- I mean 10/20/21, he was interim  
23 sheriff then?

24 A. Yes, sir.

25 Q. All right. I see on page -- it's what is PX-13, page 3.

1 In that first paragraph beginning "Immediately upon accepting  
2 an arrestee" and then you conclude that paragraph with, "This  
3 unnecessary drain on scant resources is counter to my e-mail."

4 Could you elaborate on that, if you will, for me? In  
5 reviewing the sum total of your letter, what is this about,  
6 the scant resources and unnecessary drain on your scant  
7 resources?

8 A. Yes, sir. So when someone is arrested off the street by  
9 an arresting officer from a municipality and they're presented  
10 to the jail as an arrestee, before the jail accepts custody of  
11 them, if they identify -- either the jail staff or jail  
12 medical staff identify that that arrestee is in need of  
13 medical care, they direct the arresting officer to turn around  
14 and take that arrestee to get medically cleared for custody.

15 So let's say the arrestee was involved in a fight, has a  
16 head wound, and he's bleeding. The jail staff by policy does  
17 not accept custody of that inmate because they're not fit  
18 medically for confinement. So the arresting officer is  
19 directed to take them to the hospital. At that point they  
20 don't belong to the Hinds County Detention Center. We don't  
21 have to pay for that medical bill.

22 If we accept that arrestee, the minute we accept that  
23 arrestee and then turn around and send him out to the  
24 hospital, we are going to incur that medical bill, whatever  
25 it's going to be. So if we catch it soon enough, we can not

1 only avoid serious medical issues in custody, we can avoid the  
2 cost of that.

3 Q. So in this instance on the night of November 8th, someone  
4 was arrested, brought to the detention facility. Nursing  
5 staff or the booking people thought that the person needed  
6 medical attention, and they were following their -- what you  
7 thought the -- they were following what the procedures were,  
8 and they directed that the officer take the person to go get  
9 medical treatment before being booked in; is that --

10 A. That's correct.

11 Q. Is that what happened?

12 A. That's what started to happen.

13 Q. That's what started to happen. And then, I mean, is that  
14 the appropriate -- are those the appropriate procedures? Is  
15 that what should happen?

16 A. Yes, sir.

17 Q. Okay. Now, in your last paragraph you say, "As dire as  
18 the situation here is with detention services and as much  
19 effort that is being applied to better the circumstances and  
20 move toward compliance, this directive by the sheriff is  
21 reckless and dangerous."

22 Now, what directive -- what specific directive are you  
23 referring to in that letter?

24 A. At the time, Sheriff Crisler called the jail and spoke to  
25 someone in the jail and directed them to accept custody of

1 this arrestee. In doing so, it -- again, in doing so, if that  
2 arrestee had come in and had a medical event in custody, he  
3 could have been seriously injured. He could have died at a  
4 maximum. At a minimum, the minute we were told to accept that  
5 arrestee, we were going to incur the cost from that point  
6 forward for any medical attention he received outside the  
7 facility.

8 Q. And you describe it. You say this directive is reckless  
9 and dangerous. Why do you say that directive was reckless?

10 A. Your Honor, anytime you have someone who is -- who has  
11 subject matter expertise in an area and you don't -- had he  
12 called me, I could have explained this to him, and he would  
13 have been better armed with all of the information with which  
14 to make a good decision. If he then made the same decision,  
15 still having the information that I gave him, then we would  
16 have continued to do what we were told to do by the sheriff.  
17 But my job as the jail person is to give as much information  
18 to the decision-makers about jails that I know they don't  
19 have, any more than if I went to NASA, I'm not going to make  
20 decisions for NASA without getting all the information about  
21 building a rocket that I could get from those subject matter  
22 experts.

23 And what was continuing to happen in this sheriff's  
24 administration, Sheriff Crisler, that parlayed into the next  
25 sheriff's administration was that I was being circumvented so

1 that they could continue -- sheriffs and sheriffs' senior  
2 staff could continue to apply law enforcement reasoning, law  
3 enforcement remedies to a detention problem, and that never  
4 works. It might work by accident once, but that's not a  
5 sustainable model for a successful jail.

6 Q. And I'm going to ask you, you used the term "reckless and  
7 dangerous," and I'm going to ask you the same question. Why  
8 did you say it was dangerous?

9 A. It is dangerous, Your Honor. If the inmate comes in and  
10 is clearly in -- is so clearly in need of medical attention  
11 and medical clearance for custody that the medical staff and  
12 the jail staff say the same thing, "This arrestee needs to be  
13 seen, treated, and stabilized before we accept custody," then  
14 we know what can happen. If we don't send that inmate out for  
15 higher-level treatment at a medical facility than they can get  
16 inside and we put them in the holding cell or we have them in  
17 a jail. We know what can possibly happen with arrestees in  
18 this state.

19 Q. Do you recall how much longer the Crisler -- I guess the  
20 Crisler administration was in place after you sent this  
21 letter?

22 A. I'm not for sure, sir.

23 Q. Okay. When that administration came to an end, were  
24 there any other leadership changes within the organization of  
25 the sheriff's department associated with the jail?

1 A. As far as I know, just the sheriff changed.

2 Q. Now, I note also in that the very next sentence of your  
3 letter after you describe what you thought was the sheriff  
4 actions, you say, "As a detention administrator and expert on  
5 jail matters."

6 Now, I'm going to ask you, did you consider yourself an  
7 expert on jail matters?

8 A. I do.

9 Q. You were hired by Sheriff Vance. Did Sheriff Vance view  
10 you as an expert on jail matters?

11 A. I believe he did.

12 Q. Okay. Now, when you came on to the job, you've described  
13 how you learned about the job, but I guess did you have a job  
14 description that was given to you by the sheriff's department  
15 or Hinds County? Had you ever had a job description?

16 A. No, sir.

17 Q. What were you told you would be doing? I mean, how did  
18 you know what to do? I mean, how did -- how was your -- I  
19 mean, well, was there an offer letter to you? Was there  
20 something in writing to you?

21 A. I don't believe there was, no, sir.

22 Q. Okay. So you showed up on the job.

23 A. I did.

24 Q. What were you asked to do?

25 A. Sheriff Vance asked me to run the jail and get it out of

1 the consent decree, to get it compliant with the consent  
2 decree.

3 Q. Did you report to anyone other than him?

4 A. No, sir. And, again, I worked for him for a week, so  
5 during that week I reported, I believe, directly to Sheriff  
6 Vance.

7 Q. Okay. I guess on your first day of the job, did you have  
8 a meeting with any persons affiliated with the detention  
9 center?

10 A. I believe my first day on the job was the same day that  
11 the Board of Supervisors met, so we met down there, but that  
12 wasn't a full meeting, so I believe shortly after that, I just  
13 went to the jail.

14 Q. Okay. And as best as you can, tell me about any meetings  
15 that you had with anyone, how you were intro- -- you know,  
16 you're a new person who came from -- I know how you were  
17 introduced to the Court at our status conference, but I'm just  
18 trying to find out how you might have been introduced to  
19 persons at the detention center. You know, was there a  
20 meeting of the correctional officers and "This is your new  
21 boss," anything like that done?

22 A. No, sir.

23 Q. What was done?

24 A. Nothing.

25 Q. I'm going to direct your attention to page 7 of that

1 exhibit. I'm going to give you an opportunity to review  
2 page 7. Was this part of the information that you sent as a  
3 part of your resignation letter?

4 A. No, sir, I don't believe it was.

5 Q. Oh, you don't believe page 7 was?

6 A. No, it -- make a correction. I believe it was, yes, sir.

7 Q. Okay. Tell me what that document is, please.

8 A. So we had had some inmates be sent out by our medical  
9 staff for external medical treatment of some acuity, and once  
10 those inmates went to their medical appointments, they were  
11 refusing treatment. I believe one -- in this circumstance, I  
12 believe one of them had a broken jaw, and once he got to the  
13 medical center, he refused treatment, and we are not  
14 sufficiently able to care for his medical needs in the Raymond  
15 Detention Center if he doesn't get treatment for his broken  
16 jaw. So this letter -- this e-mail is a request to sheriff's  
17 counsel to research this issue and draft up a letter that we  
18 could present to medical staff about this issue.

19 Q. Okay. And that was -- you say "sheriff counsel." That  
20 was Claire Barker?

21 A. Yes, sir.

22 Q. And the date of it is October 15, 2021, and -- well, I  
23 guess your e-mail to her is October the 14th, 2021; right?

24 A. Yes.

25 Q. And you say, "I feel that we need to have something

1 drafted up to present to outside providers." And explain what  
2 your recommendation to her was.

3 A. So this e-mail was a follow-up to a phone call that we  
4 had had, so I didn't go into detail about what we needed  
5 drafted up here. In my previous facilities, counsel would  
6 draft up a letter to outside providers telling them that  
7 there's a difference with our inmates in custody and whether  
8 they can or cannot refuse treatment. And so that's what I was  
9 asking Ms. Barker to do here was to research what we could do  
10 here in this area to address this.

11 Q. In your review of the policies or whatever, policies or  
12 practices there at the detention center, such letter did not  
13 exist?

14 A. No, sir.

15 THE COURT: By the way, for the parties, I do note that  
16 PX-13, page 7, has a phone number there that I think needs to  
17 be redacted, so we need to make sure that redaction -- that  
18 redaction will be made by the courtroom deputy, that phone  
19 number.

20 I assume that's your personal phone number.

21 THE WITNESS: Thank you.

22 THE COURT: Ms. Summers, you get that? All right.

23 BY THE COURT:

24 Q. Now, returning to that document, though, the last  
25 sentence of -- I guess it was your e-mail to Ms. Barker, you

1 said, "There is some urgency with this request as we have an  
2 inmate in custody housed in booking with a broken jaw who  
3 refused surgery yesterday."

4 Do we know how that -- you describe him as an inmate in  
5 custody. Do you know how his jaw was broken? Was that  
6 someone -- well, do you know? That's the first question.

7 A. Not to swear to it. My memory is he -- we believe he was  
8 in an altercation but didn't admit to being in an altercation,  
9 telling medical staff that he had fallen, but I'm not sure.  
10 But it happened in -- whatever it was, we believe that it  
11 happened while he was in our care.

12 Q. Okay. It happened in the detention center?

13 A. Yes, sir.

14 Q. Okay. Do we know for how long his jaw was broken?

15 A. I don't remember.

16 Q. Do we know if there's an incident report or anything to  
17 that effect that accounts for that broken jaw?

18 A. I believe there was, yes, sir.

19 Q. Okay. Direct your attention to page 19. I'll give you  
20 an opportunity to review that.

21 You've reviewed it?

22 A. Yes, sir.

23 Q. All right. Tell the Court what this document -- well,  
24 first of all, was this part -- was this -- this is an e-mail,  
25 I see. Was it included with the attachment that you submitted

1 as a part of your resignation from your duties?

2 A. I don't believe it was, Your Honor.

3 Q. You don't believe this e-mail was?

4 A. No, sir.

5 Q. Well, tell me, then, what is this -- tell me what this  
6 e-mail is.

7 A. This e-mail direct- -- or dated November 8th, 2021, from  
8 me to Sheriff Crisler was an e-mail after several  
9 conversations about --

10 Q. Wait, wait, wait. Who all was copied on that e-mail?

11 A. Anthony Simon, Claire Barker, Kenneth Wayne Jones,  
12 Synarus Green, Tony Gaylor, and Tanecka Moore.

13 Q. Tanecka Moore, it's the first time I've seen that name, I  
14 believe. Who is that person?

15 A. An attorney with the County, sir.

16 Q. Okay. You may proceed.

17 A. The subject is "Urgent Assistance Requested." I had  
18 asked Sheriff Crisler several times about help with staffing  
19 at the jail. Staffing at the jail did get worse during my  
20 tenure. This document described how bad it was getting by  
21 listing the number -- listing the number of posts that we were  
22 missing officers on a -- just a given day. I just picked a  
23 day, I picked a shift, and listed out the officers -- or the  
24 posts that weren't filled by officers on that day and  
25 referenced the fourteenth monitor's report where that was

1 addressed as well.

2 Q. And there you say --

3 THE COURT: I'll remind the parties you're responsible  
4 for making sure that you have your one representative in the  
5 courtroom if you intend to call any persons. I think --

6 MR. SHELSON: Yes, sir. Thank you. I think it's moot  
7 in the sense that Mr. Calhoun is -- other than the sheriff,  
8 the only other witness -- the only other person on our witness  
9 list is Mr. Calhoun, and we understood the Court --

10 THE COURT: No, no. Mr. Calhoun can stay in. Someone  
11 else came in who might be a -- I don't want to --

12 MR. SHELSON: Thank you, Your Honor. So the only two  
13 people in the courtroom right now on our witness list are the  
14 sheriff and Mr. Calhoun.

15 THE COURT: Right. Someone walked in. Mr. Hall is  
16 taking care of that, and it was a County administrator.

17 MR. SHELSON: Thank you, Your Honor. We appreciate  
18 that.

19 BY THE COURT:

20 Q. Now, in this e-mail you say, "The jail system has fallen  
21 below what should be considered minimum staffing levels, and  
22 we are now unable to provide basic jail functions and  
23 adequately address life safety concerns."

24 Tell me what those basic jail functions are that you  
25 thought that you-all could no longer provide as of November

1 the 8th, 2021.

2 A. Yes, sir. So if we look at the list of nine positions  
3 that were unfilled on this particular day on this particular  
4 shift, we were unable to run pod control in one of the pods.  
5 Pod control officers are responsible for opening and closing  
6 doors; for watching the monitors, the cameras, surveillance  
7 system. So we didn't have an officer for that post. We  
8 didn't have officers in -- watching four of the housing units,  
9 so they weren't doing -- they weren't -- we weren't doing  
10 direct supervision there, and if we're missing two officers  
11 for A3 and A4, that left a minimum complement of officers to  
12 do wellness checks on all the inmates in all four pods of  
13 each -- of all four units in each pod.

14 Q. I want you to go back and explain something to me. You  
15 said we were missing two officers in A3, I believe -- A3 and  
16 A4. Okay. So one officer was missing out of A3?

17 A. Yes, sir.

18 Q. One officer was missing out of A4?

19 A. Yes, sir.

20 Q. Okay. And that's all in Pod A?

21 A. Yes, sir.

22 Q. Okay. One officer was missing in B-Pod control? Is that  
23 what that represents?

24 A. Yes, sir.

25 Q. One officer was missing from B2?

1 A. Yes, sir.

2 Q. One officer was missing from C1?

3 A. Yes, sir.

4 Q. One officer was missing from booking ID?

5 A. Yes, sir.

6 Q. Medical security. You've got two officer posts there in  
7 parentheses. What does that mean?

8 A. When we have officers in -- working medical security, one  
9 officer is posted in the medical unit to provide security for  
10 the clinical functions that go on in the medical clinic. The  
11 other officer is responsible for perhaps escorting nurses down  
12 the hall to conduct medication pass, to escort mental health  
13 personnel down the hall to do their wellness checks, or to go  
14 get inmates from the housing units and bring them to the  
15 medical unit.

16 So when we don't have a full complement of the officers  
17 assigned to medical security, there are times that medical and  
18 mental health staff cannot fulfill their medical duties, so  
19 they're put off for another day or another shift or another  
20 time, but they're not conducted when medical and mental health  
21 need them to be conducted.

22 Q. And you mentioned -- is that one officer as a hall escort  
23 who's missing?

24 A. Yes, sir. The hall escort officer is also responsible  
25 for walking the hall and pulling inmates out of housing units

1 for attorney visits or to go to court or for any other  
2 administrative-type functions. Absent someone in that post,  
3 then officers assigned to the housing units have to pull the  
4 inmates out and they themselves have to leave the housing unit  
5 to escort the inmate wherever they need to go.

6 Q. Okay. And then the next item is property room/laundry.

7 Was there a person who's missing from that area?

8 A. Yes.

9 Q. Okay. So -- and this represents persons who were absent  
10 on one particular shift?

11 A. Yes, sir.

12 Q. And at the time the shift was a -- what, an eight-hour  
13 shift?

14 A. Yes.

15 Q. Your -- that sentence says, "We are now unable to provide  
16 basic jail functions." You've described that. But you go on  
17 to say, "and adequately address life safety concerns." Tell  
18 me what you meant by that.

19 A. So to adequately address life safety issues in the jail,  
20 we have to be conducting robust surveillance of inmates. We  
21 have to be watching inmates, interacting with inmates,  
22 responding to inmates, preventing inmates from whatever  
23 they're up to. We have to provide security in the medical  
24 unit. We have to facilitate medical treatment to the inmates.

25 Not facilitating medication pass or medical or mental

1 health attention can be a life safety issue. Not watching the  
2 cameras in a pod control can be a life safety issue because  
3 inmates are completely unsupervised for large periods of time.

4 Q. You -- in the next paragraph, you say, "I've attached a  
5 roster from yesterday at RDC as an example," and I presume  
6 page 21 is that roster; is that correct?

7 A. That's correct.

8 Q. All right. "It shows how desperately short-handed we are  
9 even with no one out sick, on vacation, *et cetera*. The  
10 officers reflected on the roster as 'officers off today'" --  
11 that's in quotes -- "'officers off today' are on their  
12 regularly scheduled days off, eight-hour shifts. With this  
13 complement of officers, we are not able to provide direct  
14 supervision, not able to" -- well, let's talk about not able  
15 to provide direct supervision.

16 Was direct supervision required?

17 A. It's my understanding from the consent decree -- first of  
18 all, that facility was designed, physically designed, to be a  
19 direct-supervision facility, and at one time it was run as a  
20 direct-supervision facility. It's my understanding that the  
21 consent decree requires us to be a direct-supervision facility  
22 again. And we cannot be a direct-supervision facility without  
23 officers stationed in those pods 24 hours a day.

24 Q. Even if it is not -- even if direct supervision is not  
25 required, in your view, is direct supervision important?

1 A. It is critically important, yes, sir.

2 Q. You also indicate there -- in addition to not being able  
3 to provide direct supervision, you say, "not able to provide  
4 breaks." Tell me -- that was important enough for you to put  
5 it in, so tell me, why is that important?

6 A. So changing focus from inmates to my staff, to the staff,  
7 we weren't able to provide respite breaks for officers. If  
8 there's no one to come -- if an officer is working pod control  
9 and running the cameras and opening and closing doors,  
10 watching for fires, watching for disturbances, and that  
11 officer needs to take a break during their eight-hour shift to  
12 go to the restroom or to take a meal or just to rest their  
13 brain and there's no one to replace them, then they either  
14 don't go on a break and don't rest their brains and fatigue  
15 themselves, so that perhaps they're not operating at peak  
16 capacity as officers, or they take a break and leave their  
17 post unattended.

18 Q. And you say -- associated with not being able to provide  
19 things, you said, "not provide inmate meals on time." Why is  
20 that in this memo?

21 A. When there are no -- when there is not a sufficient  
22 amount of officers to go get the meal carts from the kitchen,  
23 bring them down the hall, and distribute them to inmates and  
24 we go hours past when the mealtime is scheduled to be  
25 delivered, that can cause a great disturbance in our inmate

1 population when they're not fed on time or when they're fed  
2 cold meals that were hot when they came out of the kitchen but  
3 by the time they found officers enough to go get the meal  
4 carts, the meals are cold. That leads to inmate disturbances.

5 Q. And then your letter goes on to identify those persons --  
6 those category of people or positions that were vacant or  
7 absent because no correctional officer there on staff, and  
8 then you -- the last paragraph of the -- of that letter -- of  
9 that memo or e-mail, you say, "Below are sections from the  
10 fourteenth monitor's report that I have copied." And that  
11 portion of the report says "Recognizing all of the above noted  
12 problems coupled with the fact that the sheriff has been  
13 tasked with adequately staffing the jail system," and so forth  
14 and so on. It's there. It's in evidence.

15 Why did you think it was necessary to put in this e-mail  
16 a quote from -- I guess at that time it was the most recent  
17 monitor's report; is that correct?

18 A. That is, yes, sir.

19 Q. So why did you feel the need to put that in this e-mail?

20 A. So past relationships I've had with previous sheriffs,  
21 because I've always worked for a sheriff's office, I felt it  
22 my role to do the heavy lifting for my boss, and if I could  
23 put everything in writing that they might need for leverage if  
24 they needed help getting something to help the jail, if I  
25 could put it all in writing, all the justification, so that

1 they could then turn around and just give my memo to whoever  
2 they needed to give it to to get something for the jail -- I  
3 don't know if I'm explaining this very well, but I want to  
4 document all the leverage I could possibly think of to help  
5 the sheriff leverage a change or to -- this provides a service  
6 to my boss so that he can see all the information that's  
7 available to make his priority decision.

8       If I do a lesser professional job and I just say,  
9       "Sheriff, we need more people. We're short-handed," then he  
10      doesn't know how to prioritize my request because nothing in  
11      that request indicated a sense of urgency, and another aspect  
12      of his agency might give rise to a higher sense of urgency in  
13      that moment for staffing.

14       So if I can provide all the justification I possibly can  
15      to educate my boss to make the best decision, that's why I  
16      added that last paragraph from the monitor's report as if to  
17      say, "Sheriff, this is also on the monitor's radar," to help  
18      increase awareness to what the sense of urgency was not just  
19      from me and from the facts that I presented but also from the  
20      monitors.

21       Q.    I want to turn your attention, same e-mail and going back  
22      to the first paragraph, the second sentence says "I am  
23      respectfully requesting immediate assistance with staffing the  
24      jail until such time as a recruiting and retention plan bears  
25      fruit and we can adequately staff the facilities with

1                   detention officers as required by the federal government."

2                   Let me ask you this question: First of all, did you ever  
3 receive a response to this e-mail?

4                   A. No, sir.

5                   Q. From no one, a written response?

6                   A. No, sir.

7                   Q. Did you ever get a verbal response to this e-mail?

8                   A. No, sir.

9                   Q. Did anyone ever talk to you about fulfilling the requests  
10                  that you have here, this need for immediate assistance with  
11                  staffing?

12                  A. No, sir.

13                  Q. At the particular time you said, "until such time as a  
14                  recruiting and retention plan bears fruit," did the County  
15                  have a recruiting and retention plan in place on this  
16                  particular day?

17                  A. No, sir. Not yet.

18                  Q. Prior to your -- I may have asked -- I'm asking it in a  
19                  different way now, but prior to your -- I think you've already  
20                  said you never received a response to this. You left  
21                  January 31st?

22                  A. Yes, sir.

23                  Q. Right? Of 2022; right?

24                  A. Yes, sir.

25                  Q. You never received -- obviously this letter was written

1 to Sheriff Crisler, but there were others who were copied.

2 Did you ever get a response at all to the next sheriff -- at  
3 all from the next sheriff, which was Sheriff Jones?

4 A. No, sir.

5 Q. Did you and Sheriff Jones ever talk about the staffing  
6 needs of the facility?

7 A. Yes, sir, we did.

8 Q. Okay. And what were those conversations about?

9 A. They were similar --

10 Q. If you recall.

11 A. Yes, sir. They were similar in nature to this e-mail  
12 request. It was an in-person meeting asking for help with  
13 staffing with Sheriff Jones for the jail.

14 Q. Did any of the other people cc'd on that e-mail respond  
15 in any way?

16 A. No, sir.

17 THE COURT: Now, for the parties I note -- I just want  
18 to make sure my record is clear. Your PX page 16 is a blank  
19 sheet. It's blacked out. Is that intentionally done in some  
20 way? I -- just for your record so that your record -- so that  
21 your record could be clear.

22 MS. COWALL: Your Honor, we're checking on this. One  
23 moment, please.

24 THE COURT: Okay.

25 MS. COWALL: Your Honor, that page that was blacked out

1 was redacted because it was part of a medical record. It  
2 probably was overredacted, and we're happy to provide the  
3 Court with a version that does not contain the redactions.

4 THE COURT: Whatever the pleasure of the parties are.  
5 It's your record, not mine, so --

6 MS. COWALL: We'll do that, Your Honor.

7 THE COURT: Okay. Are we ready to resume or... Are  
8 we? I mean, we don't -- I mean, are we ready?

9 MS. COWALL: Yes, Your Honor. We'll have to take some  
10 time to get the Court an unredacted version and request it be  
11 filed under seal. We don't have that available at this very  
12 moment.

13 THE COURT: Okay. No problem, unless we get an  
14 objection from the County in that regard.

15 MR. SHELSON: We can make that decision, Your Honor,  
16 once we see it.

17 THE COURT: Once you see it?

18 MR. SHELSON: Yes, sir.

19 THE COURT: Okay.

20 BY THE COURT:

21 Q. Well, let me ask you this, Major Bryan. And we're  
22 wrapping up with the questions that I have, I think.  
23 Beginning at P-9 -- excuse me, page 9, rather, page 9 I  
24 believe are the policy with the subject of the chapter being  
25 "Health Care," the subject being "Health Care Management."

1 Page 9 shows Procedure 13-101, "General."

2 Page 10 -- well, you go from -- you know, again, I was  
3 reading these, and I just want to make sure. I guess it's  
4 your testimony that you also included portions of the  
5 procedures that you -- well, let me ask you: Are these  
6 portions of the procedures that you contend that -- provided  
7 for how the nursing and booking people should have responded  
8 in the November 8th or 9th incident -- November the 8th  
9 incident?

10 A. Yes, sir.

11 THE COURT: Now, I notice page 9 is what appears to be  
12 a page 1 of Policy Number 13-100. Page 10 of the exhibit  
13 shows page 3. Should there be a page 2?

14 I'm asking the people who prepared this exhibit, and it  
15 looks like every odd page is here and none of the even pages.  
16 I'm just asking so that the record could be clear, because it  
17 does not look like all the paragraphs of Procedure 13-101 are  
18 in evidence -- I mean is a part of this.

19 BY THE COURT:

20 Q. And I just want to know: Did you make -- what did you --  
21 you said you understood that you were doing page 1 here, you  
22 know, understanding that matters of public record may -- the  
23 sheriff's office would be able to report to the public this is  
24 your letter of resignation, and you said you attached other  
25 documents.

1       I just want to know: Of the documents that's submitted  
2 here, those are the documents, because I think you've already  
3 testified that you do not believe that page 19 of the exhibit  
4 was attached as a part of it. But of the procedures that you  
5 attached, are those -- the ones that are included in that  
6 packet, would that include all the pages that you would have  
7 made part of the letter of resignation?

8 A. So, again, Your Honor, I'm not -- I cannot recall if the  
9 e-mail about the staffing shortage was part of the resignation  
10 letter. I can't recall one way or the other. I do recall  
11 that the policies were included.

12 Q. Okay. The full -- now, does this represent the full  
13 policies that you provided?

14 A. So I can't recall if it had the even pages.

15 Q. Okay.

16 A. But I did include the policy.

17 Q. And tell me, why did you include either all or a portion  
18 of the various policies that you included?

19 A. It's always been my intent as a jail administrator to  
20 take every opportunity I can to educate everyone on jail  
21 operations, because I find that many people involved with the  
22 jail know very little about how it should be correctly run.  
23 They might know a lot about how it has been currently running,  
24 but every chance I get to educate anybody involved in the  
25 jail, I take that opportunity.

1           Part of that is to show, here is the policy. Here's why  
2 detention staff was doing what they were doing in that booking  
3 area during that November event, to educate the sheriff on  
4 this is why what you said to them was counter to the policy.  
5 So that's the intent of including the policies, Your Honor.

6 Q. Okay. Now, again, you left employment with the County on  
7 January 31st, 2022. You began working for a new sheriff,  
8 Sheriff Jones; is that correct?

9 A. Yes, sir.

10 Q. Okay. So from the time that you were there, you worked  
11 under Sheriff Vance, Interim Sheriff Crisler, and then Sheriff  
12 Jones?

13 A. Yes, sir.

14 Q. Is that correct?

15           Now, at some point in time before -- between Vance's  
16 death and Crisler's appointment as interim sheriff, somebody  
17 served as -- somebody, I mean, because there was no sheriff in  
18 place. Do you know who that person was?

19 A. I believe that was Mr. Eric Wall.

20 Q. Did you ever have any sort of conversation with Mr. Eric  
21 Wall?

22 A. I did as part of a larger conversation when Sheriff Vance  
23 was here, but I don't recall if I had a meeting with Mr. Wall  
24 while he was serving in between those two administrations.

25 Q. All right. And that period was not very long, was it?

1 A. No, sir.

2 Q. All right. Now, do you know where Sheriff Crisler is? I  
3 mean, do you know if he holds any position in the County  
4 organization at this time?

5 A. At the time I left, he was the director of the  
6 Henley-Young youth facility.

7 Q. On your letter of November 10th, 2021, the letter of  
8 resignation, you say, "During the next three months, as the  
9 County retains my replacement, I will continue to work as  
10 diligently as I have since I've been here and will help my  
11 successor in their transition."

12 Did you discuss with anyone about assisting the -- your  
13 successor in the transition?

14 A. No, sir.

15 Q. Did you assist in any way?

16 A. I didn't have a successor while I was there.

17 Q. Okay. You didn't have a successor while you were there?

18 A. Right.

19 Q. All right. As of November the 10th, you were willing to  
20 aid any successor in your transition?

21 A. Yes, sir.

22 Q. Were you willing to aid anyone in your -- any successor  
23 from January 31st, 2022?

24 A. Yes, sir.

25 Q. Now, I think there was some testimony -- well, let me ask

1 you this: Based on your conversations with Sheriff Jones  
2 about the detention center, do you know if you -- well, first  
3 of all, did you have any conversations with Sheriff Jones  
4 about the detention center?

5 A. We did.

6 Q. Based on those conversations -- approximately how often;  
7 how many?

8 A. Maybe two.

9 Q. Two? Did you-all have a staff meeting or anything in  
10 that regard to talk about the ongoings of the detention  
11 center?

12 A. No, sir.

13 Q. Did you-all discuss the consent decree or the stipulated  
14 order in any way?

15 A. Nothing more than a reference to it during a  
16 conversation.

17 Q. And what -- any -- you say a "reference to it." Tell me  
18 about that discussion about the detention center.

19 A. We had a meeting regarding the termination of jail staff.  
20 In that meeting was Sheriff Jones, Anthony Simon, myself, and  
21 Lieutenant Cheryl Childs from investigations, and there was  
22 some disagreement between Sheriff Jones and I about my  
23 participation in a discussion or decision-making process about  
24 personnel issues with the jailers, and when I said to Sheriff  
25 Jones that it was part of the consent decree that the jail

1 administrator be an integral part of personnel matters with  
2 detention officers, his words to me, and I quote, were, "Prove  
3 it."

4 So I pulled out the consent decree and showed him the  
5 section that was relevant, and he read it and told me that he  
6 disagreed and interpreted it differently than that. So that  
7 was what I would reference. That would have been the  
8 reference to the consent decree during the course of the  
9 conversation.

10 Q. Any meeting about Sheriff Jones would have started  
11 sometime after the Court entered its show cause order; right?  
12 If I tell you that the record would reflect that the Court  
13 entered its show cause order after the polls closed on the  
14 night of the runoff election, then Sheriff Jones would have  
15 become in office at some point after that. If I make that  
16 representation.

17 MR. SHELSON: We'll stipulate to that, Your Honor.

18 THE COURT: Okay. All right.

19 BY THE COURT:

20 Q. Was there a conversation between you and Sheriff Vance --  
21 excuse me, Sheriff Jones with respect to this court's show  
22 cause order?

23 A. No, sir.

24 Q. Okay. You submitted a declaration as a part of some  
25 documents, and I think the lawyers have spoken with you about

1 that. Was Sheriff Jones a part of you -- assisting with you  
2 preparing your declaration?

3 A. No, sir.

4 Q. Okay. What was your perception of how -- you had dealt  
5 with Sheriff -- well, let me ask you this: When you came on  
6 with Sheriff Vance, and I realize the overlap there was a week  
7 or so, but even prior to that, was it your understanding that  
8 you would have a part in -- as a jail administrator, you would  
9 have some say-so with respect to the management of employees  
10 there?

11 A. I so believed that from Sheriff Vance that I closed part  
12 of my consulting business, uprooted my entire life, came out  
13 of retirement, and moved to Mississippi because I so believed  
14 Sheriff Vance when he told me that I would be able to run the  
15 jail. I think the words that he or someone in his  
16 administrative staff said to me was, "We're going to give you  
17 the keys to the kingdom and let you do what you do." That's  
18 how deeply I believed in Sheriff Vance.

19 Q. Now, what was your -- you alluded to -- well, not you  
20 alluded to. We've talked about the letter of resignation  
21 submitted to Sheriff Crisler, and I -- what was your  
22 perception, if you will, about the priority of the consent  
23 decree based on your conversations with Sheriff Jones?

24 A. Given that we never did have a meeting, a strategic plan,  
25 or a targeted conversation about the consent decree, it

1       appeared that it wasn't as high a priority as I felt it should  
2       have been.

3               THE COURT: Those are all the questions that the Court  
4       has, and I know they turned out to be more than what I sort of  
5       indicated to the parties on yesterday. But I've covered the  
6       issues, I believe, that I wanted to cover.

7               I turn to the United States. You may follow up based  
8       on some of the questions that I've asked.

9               MS. COWALL: Thank you, Your Honor. I'll do that.

10               **FURTHER DIRECT EXAMINATION**

11               **BY MS. COWALL:**

12       Q. I'd like to pull up Plaintiff's Exhibit 13, please. And  
13       if we could turn to page 3 of that exhibit. And if we look at  
14       that first paragraph, the second sentence, stating "This  
15       unnecessary drain on scant resources is counter to my e-mail  
16       to the sheriff on Monday, November 8, 2021, (see e-mail and  
17       shift roster attachments) where I address an urgent need for  
18       staffing support."

19               Ms. Bryan, does that indicate to you whether the e-mail  
20       we've been discussing was attached to your letter of  
21       resignation?

22       A. Can you ask that again, please?

23       Q. Sure. If you look at the second sentence in the first  
24       paragraph on page 3 of PX-13, does that refresh your  
25       recollection as to whether the e-mail regarding staffing that

1 we've been discussing was attached to your letter of  
2 resignation?

3 A. Yes, I believe it was.

4 Q. So is it your recollection that the e-mail regarding  
5 staffing that we've been discussing was indeed attached to  
6 your letter of resignation sent to the County?

7 A. Yes.

8 MR. SHELSON: Objection. Leading.

9 THE COURT: Objection overruled.

10 BY MS. COWALL:

11 Q. I just have a few follow-up questions as to what we've  
12 been discussing this morning, Ms. Bryan. When you spoke about  
13 the detainee who was accepted into the jail contrary to jail  
14 policy, if the jail had turned this detainee away, who would  
15 be responsible for watching that detainee?

16 A. The arresting officer.

17 Q. And if the jail accepted the detainee into the jail, who  
18 would be responsible for watching that individual?

19 A. Jail staff.

20 Q. So did that also have an effect on your correctional  
21 officer staffing?

22 A. It did.

23 Q. And we talked a bit about some information on page 19 of  
24 PX-13.

25 MS. COWALL: If we could pull that up, please.

1 BY MS. COWALL:

2 Q. Now, under the list of posts where officers were not  
3 present during this date, we talked about how one officer was  
4 missing. Did that mean there was any officer on the posts  
5 listed in this list of nine posts?

6 And if you could take them one by one, that might be  
7 easier. So let's start with A3. Does this mean there was  
8 anybody on A3 that day?

9 A. No.

10 MR. SHELSON: Objection. Leading.

11 THE COURT: Objection overruled.

12 A. As indicated by the shift post assignment on page 21 of  
13 this exhibit, A3 was blank, indicating that there were no  
14 officers assigned to that post.

15 BY MS. COWALL:

16 Q. So it's not just that one officer was missing on A3; it's  
17 that nobody was on A3; is that correct?

18 MR. SHELSON: Objection. Leading.

19 THE COURT: Don't lead the witness.

20 BY MS. COWALL:

21 Q. What does this indicate with regard to A3 with regard to  
22 whether any officer was on the unit that day?

23 A. As reflected on the post assignment roster, when you see  
24 A3 and no officer assigned to that post, that indicates that  
25 no officer was on that post. So --

1 Q. And is that -- I'm sorry.

2 A. I'm sorry. So if officers needed to go to A3, they would  
3 come from one of the other posts that they were on, and they  
4 would leave that post to go to A3 to attend to whatever needed  
5 to happen in A3.

6 Q. And is that the case for all the posts listed in that  
7 list of nine?

8 A. It is.

9 Q. Now, if you look further down on that same page to the  
10 reference from the fourteenth monitor's report, there's a  
11 reference to the recent transfer of three detention officers  
12 to patrol. Do you know what that's referring to?

13 A. I believe this was the time frame where there were three  
14 detention officers who were also law enforcement certified and  
15 they were pulled out of the jail and put on patrol.

16 Q. Was that the only time it happened?

17 A. The only time what happened? I'm sorry.

18 Q. Oh. Were you aware of any other times that officers were  
19 pulled from detention to other parts of the sheriff's office?

20 A. Yes. During my tenure that happened -- that did happen  
21 where detention officers holding detention positions were  
22 taken from detention services and transferred to the  
23 operations in various positions there.

24 Q. And you discussed some meetings with Sheriff Jones in the  
25 context of references to the consent decree. Did your

1 meetings with Sheriff Jones also address your requests for  
2 additional jail staffing?

3 MR. SHELSON: Objection. Leading.

4 THE COURT: Objection overruled.

5 A. Yes.

6 BY MS. COWALL:

7 Q. What did Sheriff Jones say regarding your request for  
8 additional jail staffing in those meetings?

9 A. So in those conversations, I offered some suggestions on  
10 how that could happen, how law enforcement could be freed up  
11 to come work in the jail temporarily. The sheriff denied  
12 those suggestions. He said that he wasn't going to support  
13 those. And then after that I asked him if he had any  
14 suggestions on how we could reallocate sheriff's resources to  
15 prioritizing the jail, and he said he did not.

16 MS. COWALL: I have nothing further, Your Honor.

17 THE COURT: Thank you.

18 Mr. Shelson, you may proceed.

19 MR. SHELSON: Your Honor, defendants request a  
20 30-minute recess to prepare their examination.

21 THE COURT: A 30-minute recess?

22 MR. SHELSON: Yes, Your Honor.

23 THE COURT: Okay. Well, before we do that, then --  
24 because you might need more than 30 minutes, because I got a  
25 couple of other questions.

1 MR. SHELSON: Yes, sir.

2 THE COURT: And the Government will have an  
3 opportunity. And I'm sorry.

4 **EXAMINATION**

5 **BY THE COURT:**

6 Q. Major Bryan, page 21 of P-13, this was the post  
7 assignment sheet that you attached to your e-mail of November  
8 the 8th, 2021?

9 A. Yes, sir.

10 Q. Okay. And it identifies -- your e-mail identifies the  
11 positions that were vacant on that date because people were  
12 off work, basically; is that right?

13 A. Yes, sir.

14 Q. Okay. I just want to know this: On your sheet there,  
15 it's the second shift under A-Pod floor. A1 identifies a  
16 person who was there, Princess Gardner; correct?

17 A. Yes, sir.

18 Q. A2, Marcus Wilson was there. A3 -- well, first of all,  
19 approximately how many inmates are in A1?

20 A. I don't know off the top of my head. There's about 60 in  
21 each.

22 Q. In each...?

23 A. Unit.

24 Q. In each unit. And is A a unit?

25 A. A is a pod.

1 Q. A is a pod.

2 A. A1 would be a unit. A2 would be a unit.

3 Q. So each pod holds approximately 200 people?

4 A. Yes, sir.

5 MR. SHELSON: No.

6 THE COURT: I'm asking. I know that would be 240 based  
7 on what she said.

8 MR. SHELSON: I'm sorry. Is Your Honor asking the  
9 capacity or how many people were there at --

10 THE COURT: I'm trying to figure out how many people --  
11 we can go back and look at the records on that particular day,  
12 I guess. That might be in a particular monitor's report. But  
13 I'm just trying to find out. Obviously this is from November  
14 the 7th, 2021.

15 BY THE COURT:

16 Q. So how many persons does a pod hold, approximately?

17 A. It varies. About 64.

18 Q. It's designed to hold a pod?

19 A. About 64.

20 Q. Sixty-four people?

21 A. Yes, sir.

22 Q. Okay. So in A1, is it fair to say 25 percent of that 64  
23 is in A1?

24 A. To clarify, each unit holds approximately 64. Each of  
25 the four units holds --

1 Q. Each of the four units -- A1 would hold 64?

2 A. Yes, sir.

3 Q. A2 would hold approximately 64?

4 A. Yes, sir.

5 Q. A3 would hold approximately 64?

6 A. Yes, sir.

7 Q. But on this day on this shift, nobody was in A3?

8 A. Correct.

9 Q. Was somebody supposed to be in A3?

10 A. Yes, sir.

11 Q. A4. Nobody was on A4; is that correct?

12 A. Yes, sir.

13 Q. Was somebody supposed to be on A4?

14 A. Yes, sir.

15 Q. Were detainees there in A4 on that day?

16 A. Without having the proper records, I would presume so,  
17 that that unit was full, was -- had -- occupied.

18 Q. Occupied. I'm not talking about full, but did they have  
19 any detainees in that particular unit?

20 A. Yes, sir.

21 Q. To your knowledge?

22 A. Yes, sir.

23 Q. Any in A3 on that day?

24 A. Again, without having the records in front of me, I  
25 assume that it was occupied.

1 Q. Okay. All right. With respect to the B-Pod floor that's  
2 referenced here, there's an individual who's there at B1.  
3 There's a name there. There's no name at B2. Would there be  
4 a person who's expected to be on B2?

5 A. So while I was there, Your Honor, there were varying  
6 stages of construction going on, and some of the units at some  
7 points were empty of inmates. I can't say with a certainty  
8 where inmates were housed. To say that they all would have  
9 been occupied, I don't want to make that assertion without  
10 having the documents in front of me, but I can assure you that  
11 these posts that are vacant on the sheet, some of them were  
12 occupied with inmates.

13 Q. And the ones specifically that you mentioned in your  
14 e-mail you had identified as ones that -- that's P-19?

15 A. Yes, sir.

16 Q. I mean page 19. I'm sorry. Page 19 in your e-mail, you  
17 list them, some, as we talked about, where there were persons  
18 who were not on those particular posts on that given day?

19 A. Yes, sir.

20 Q. Okay. So, again, A3 would have housed inmates on that  
21 day?

22 A. Yes, sir.

23 Q. A4 would have housed inmates on that day?

24 A. Yes, sir.

25 Q. And you have B-Pod control on this sheet, page 19, and

1 B-Pod control on your post assignment sheet is vacant?

2 A. Yes.

3 Q. So somebody was supposed to be in B-Pod control?

4 A. Yes, sir.

5 Q. Now, does that mean that there was no one in B-Pod  
6 control?

7 A. It was likely that the officer assigned to B1 went into  
8 B-Pod control to watch the cameras.

9 Q. Okay. So that person could just watch the cameras but --

10 A. They would also have been responsible for wellness checks  
11 on inmates in B1 and B2.

12 Q. And the way that you generally staff it is that at least  
13 someone is in control and at least someone is in each pod?

14 A. In each unit of the pod, that's correct, yes, sir.

15 Q. In each unit of the pod. So in C1, the records would  
16 necessarily show at some point, I guess, or could show that  
17 C1, no one was there, according to the post assignment sheet;  
18 others were in C2, C3, and C4. So there were at least some  
19 inmates in C1?

20 A. Correct.

21 Q. Thank you, Major Bryan.

22 THE COURT: I'll give the -- the United States will  
23 have an opportunity to resume after this 30-minute break,  
24 because I'm going to give it to the County, this 30-minute  
25 break, and then we will start up at that point.

1 MR. SHELSON: One thing for consistency, Your Honor.  
2 Exhibit P-13, page 20, also has the major's cell phone number  
3 on it, so if that could be redacted as well. I just wanted to  
4 point that out.

5 THE COURT: Thank you so much, Mr. Shelson. Page 20?

6 MR. SHELSON: It's at the top of the page.

7                   THE COURT: Right. We'll make sure it's redacted on  
8 the record.

9 We'll be in recess until 11:05.

10 (A recess was taken.)

11 THE COURT: You may be seated.

12 Does the Government wish to follow up with the matters  
13 after this break based on the questions that I've asked?

14 MS. COWALL: Yes. Just a few follow-up questions, Your  
15 Honor. But before we start, we conferred with defense counsel  
16 during the break, and they have no objection to submitting to  
17 the Court an unredacted version of PX-13 and requesting that  
18 it be under seal.

19 THE COURT: PX-13 or just that one document in PX-13?

20 MR. SHELSON: Your Honor, if I could confer with  
21 counsel?

22 | THE COURT: Okay.

23 MS. COWALL: So what we're proposing is that there be  
24 two versions of PX-13 and this second version could be, for  
25 example, PX-13-1, and it would be unredacted and we would

1 submit it under seal.

2 THE COURT: Y'all agree to do it?

3 MR. SHELSON: Yes, Your Honor, we agree.

4 THE COURT: And is that suitable, Ms. Summers? We'll  
5 figure it out. Okay. All right.

6 Oh, Major Bryan, you may return to the stand, please.

7 MS. COWALL: I have one more housekeeping matter before  
8 we start, actually.

9 THE COURT: Yes.

10 MS. COWALL: And it's with regard to the question about  
11 only the odd-numbered pages being included in that medical  
12 policy attached in PX-13. That's the way that the United  
13 States received PX-13, that document. We received it from the  
14 County's compliance coordinator, but if the Court wants to see  
15 a full version of that, it's Defense Exhibit 77.

16 THE COURT: Okay. Thank you so much. I just wanted to  
17 make sure that PX-13 is fulsome, I mean, you know, it's what  
18 the United States intended to put in evidence. That's all.

19 MR. SHELSON: Just so the record's a little more clear,  
20 there's actually two different policies attached to  
21 Exhibit P-13, and one of them, one of those two, has been  
22 admitted into evidence as D-77. The other one has not been  
23 admitted into evidence.

24 THE COURT: Okay. All right. Thank you.

25 **FURTHER REDIRECT EXAMINATION**

1 **BY MS. COWALL:**

2 Q. Ms. Bryan, before the break, we talked about an example  
3 roster attached to your letter of resignation.

4 MS. COWALL: Can we go ahead and pull up PX-13, again,  
5 please, and could we look at page 19.

6 **BY MS. COWALL:**

7 Q. And we talked about those two medical security posts that  
8 were unfilled on that date. Ms. Bryan, how often were the  
9 medical security posts short-staffed during your tenure as  
10 jail administrator?

11 A. Without having an array of records, on average we  
12 typically had just one medical security officer.

13 Q. And did that impact the delivery of medical and mental  
14 health care?

15 A. It did.

16 Q. How so?

17 A. I would get e-mails from the health service administrator  
18 or from other mental health staff documenting the times that  
19 they couldn't provide their services because we didn't have  
20 staff to escort them.

21 Q. And we also talked about units occupied by inmates or  
22 detainees that operated without any officer assigned. Do you  
23 recall that?

24 A. Yes.

25 Q. How often did that happen, that there were occupied units

1 without any officer assigned?

2 A. Regularly.

3 Q. And when you say "regularly," is that -- is there any way  
4 you can quantify that?

5 A. On any given day -- in general, on any given day on any  
6 given shift -- let me back up.

7 I don't recall ever seeing a post assignment sheet that  
8 was full while I was there. So on any given day on any given  
9 shift, there were vacancies.

10 Q. Does that impact safety and security in the jail?

11 A. Of course.

12 Q. How so?

13 A. Inmates require supervision. Policy requires wellness  
14 checks. Jail operations require officers to do those  
15 ancillary functions. Anytime we don't have staff to fulfill  
16 those duties, they get left undone. And in the jail, lots of  
17 things are priorities. Lots of things can be tied either  
18 directly or indirectly to life safety. So it is -- it is of  
19 great impact to have low staffing levels, consistent low  
20 staffing levels.

21 MS. COWALL: Thank you, Ms. Bryan.

22 I have nothing further at this time.

23 THE COURT: Okay. Thank you.

24 MR. SHELSON: May I proceed, Your Honor?

25 THE COURT: Yes, you may.

## **FURTHER RECROSS-EXAMINATION**

BY MR. SHELSON:

3 Q. Good morning, Major.

4 A. Good morning, sir.

5 Q. Major Bryan, when you were the jail administrator, did  
6 you have a written employment contract with the County?

7 A. I did not.

8 Q. Did you ever draft or prepare a strategic plan?

9 A. I presented plans of action.

10 Q. Right. And do you agree with me that when the Court was  
11 asking you questions, you made specific reference to a  
12 strategic plan?

13 A. Yes.

14 Q. And that's the testimony I'm talking about. So  
15 specifically with regard to a strategic plan, did you ever  
16 draft one?

17 A. I never drafted anything titled "Strategic Plan," no.

18 Q. We visited about this the first time you were here. On  
19 approximately November 3rd, 2021, did Sheriff Crisler offer  
20 that detainees in A-Pod could be moved to Madison and Rankin  
21 Counties?

22 A. Did he say that to me?

23 Q. Yes. I think your testimony on last time was -- the  
24 answer to that question was yes.

25 A. So there was a meeting with County officials where I

1 believe Sheriff Crisler offered that as an option, to move  
2 inmates out to adjoining counties.

3 Q. And did you reject that offer?

4 A. Again, it was a generalized meeting. He wasn't directing  
5 that to me, but I raised some concerns about that because we  
6 hadn't had a chance to sit and talk about what that would  
7 entail.

8 MR. SHELSON: May I display this, please?

9 BY MR. SHELSON:

10 Q. You agree your resignation letter that's marked  
11 Exhibit P-13 is dated November 10th, 2021?

12 A. Yes.

13 Q. Is the meeting that you're talking about where the issue  
14 of moving A-Pod detainees to Madison and Rankin Counties, did  
15 that meeting occur before November 10th, 2021?

16 A. I don't recall when that meeting was, but if it was  
17 November 3rd, then, yes, it would have been prior to this  
18 letter.

19 Q. All right. Page 1 of Exhibit P-13, Major Bryan, do you  
20 remember the Court asking you some questions about whether you  
21 were willing to help your successor in transition?

22 A. Yes, sir.

23 Q. And you testified that you never had a successor; did I  
24 get that correct?

25 A. Yes.

1 Q. But is it your position that you rescinded this  
2 resignation?

3 A. Yes.

4 Q. Are you able to see this, Major?

5 A. Yes.

6 Q. Thank you. I'm turning to page 3 of Exhibit 13, this  
7 first highlighted sentence where it talks about an unnecessary  
8 drain on scant resources. Is that in reference to medical  
9 care?

10 A. That sentence is in reference to the staffing support in  
11 that e-mail.

12 Q. Okay. And so what costs are you complaining about that  
13 should not have fallen on the detention center?

14 A. So that sentence that refers to an unnecessary drain with  
15 regards to staffing support, when we accept an arrestee into  
16 the facility and then have to transport them to the hospital,  
17 then that falls on detention staff to do that transport, not  
18 just transporting but staying with the inmates while they're  
19 at the hospital for treatment.

20 Q. But are you suggesting that ultimately somebody other  
21 than the County would have bore those costs?

22 A. So if we don't accept the arrestee?

23 Q. Right.

24 A. It was my understanding that if we do not accept that  
25 arrestee into custody and have the arresting officer from the

1 municipality take them to the hospital, then those costs are  
2 not borne by us.

3 Q. Who is "us"?

4 A. The County.

5 Q. That's your understanding?

6 A. That was my understanding, yes.

7 MR. SHELSON: May I approach the witness, Your Honor?

8 THE COURT: You may.

9 BY MR. SHELSON:

10 Q. Major Bryan, is Exhibit D-77 one of the two policies  
11 that's attached to Exhibit P-13?

12 A. Yes.

13 Q. Do you know one way or the other whether the odd-numbered  
14 pages are omitted from P-13 because you just didn't copy them?

15 A. I don't know why they're omitted.

16 MR. SHELSON: May I approach the witness, Your Honor?

17 THE COURT: You may.

18 BY MR. SHELSON:

19 Q. I've handed you a copy of Exhibit P-13. Will you turn to  
20 page 9, please. Is this Policy Number 13-100?

21 A. I'm sorry. The pages aren't numbered in this packet.

22 Q. Is this Policy Number 13-100?

23 A. Yes.

24 Q. Okay. So what policy are you saying was violated?

25 A. This policy.

1 Q. I know. What specific provision of that policy are you  
2 saying was violated?

3 A. Can you give me a minute to review the entire policy to  
4 select those areas?

5 Q. Sure.

6 A. So it would begin with Section 13-101, subsection 2,  
7 where it says, "Health care-related judgments are made by the  
8 physician, psychiatrist, nurse practitioner, or dentist  
9 working under contract with HCDS."

10 Q. What provision was that?

11 A. 13-101, subsection 2.

12 Q. Major Bryan, let me stop you there. Isn't Policy 13-100  
13 applicable to once the detainee is already at RDC?

14 A. Right. So that arrestee was at RDC.

15 Q. Right. He would -- let me rephrase that.

16 13-100 applies to people who are already admitted as  
17 detainees at RDC; correct?

18 A. I don't know. I'd have to review the --

19 Q. All right. Let's move on, then. Let me show you -- let  
20 me just display this to you.

21 MR. SHELSON: Well, first of all, may I confer with  
22 counsel?

23 THE COURT: Yes, you may.

24 MR. SHELSON: So what I'm about to show the witness  
25 were two instances where there should be a redaction where

1 there's not, so can we not display this beyond the witness?

2 THE COURT: Okay. All right.

3 MR. SHELSON: I can deal with it, Your Honor.

4 THE COURT: Can you show it to her?

5 MR. SHELSON: Yes, sir.

6 BY MR. SHELSON:

7 Q. I'm going to ask you about that page, Major. If I can  
8 take my doc- --

9 THE COURT: If you want to -- I'm sorry. If you want  
10 to retrieve it, Ms. Summers can assist you now.

11 MR. SHELSON: Thank you, Your Honor.

12 BY MR. SHELSON:

13 Q. I'm going to ask you some questions about that. So do  
14 you now know who I'm talking about when I --

15 A. Yes.

16 MR. SHELSON: So can I display this just to the witness  
17 and not publicly?

18 BY MR. SHELSON:

19 Q. All right. This is the person we're talking about where  
20 you took issue that this person was admitted to RDC over your  
21 objections; is that correct?

22 A. I believe so, yes.

23 Q. Okay. So what was that person arrested for?

24 A. I don't know.

25 Q. All right. If that person was arrested for domestic

1 violence, does -- do you know whether under Mississippi law  
2 that person must be detained?

3 A. Can you rephrase your question?

4 Q. If this arrestee was arrested for domestic violence, do  
5 you know whether under Mississippi law that person must be  
6 detained?

7 A. Yes. I believe so, yes.

8 Q. And he was, in fact, detained?

9 A. When you say "detained," do you mean by the arresting  
10 officer or --

11 Q. No. I mean detained -- I mean in this instance detained  
12 at RDC.

13 A. Yes.

14 Q. Okay. And was he, in fact, detained at RDC?

15 A. Yes.

16 Q. Over your objection?

17 A. It wasn't my objection to accept him into custody. It  
18 would have been my recommendation to send him out for medical  
19 treatment prior to accepting him into custody.

20 Q. And this arrestee, though, he was sent out -- he was sent  
21 to the hospital, wasn't he?

22 A. It appear- --

23 Q. Right here. "Was taken to UMMC and refused treatment."  
24 Did I read that correctly?

25 A. The entirety of that sentence says, "Prior to coming to

1 RDC," so it would appear from this document that the arresting  
2 officer had presumably taken him to the medical center.

3 Q. Right. So the arresting officer took this arrestee to  
4 UMMC, and the arrestee refused treatment; correct?

5 A. Yes.

6 Q. And then he was brought to RDC and he was placed into  
7 custody because he was charged with domestic violence;  
8 correct?

9 A. Initially the report I got from the officers and medical  
10 staff was that they were asking the arresting officer to take  
11 that arrestee to the medical clinic for clearance.

12 Q. Okay.

13 A. And then he was later accepted into the facility.

14 Q. And do you know one way or another whether placing him in  
15 custody for his domestic violence charges was consistent with  
16 Mississippi law?

17 A. Yes, it was.

18 Q. Did you have any discussion while all this was going on  
19 with Sheriff Crisler on what his rationale was for wanting  
20 this arrestee placed in custody?

21 A. Yes. After the event, we did.

22 Q. And did he mention to you the domestic violence issue?

23 A. He did.

24 Q. Do you recall being asked by the Court about this e-mail,  
25 Major Bryan, which is page 19 of Exhibit P-13?

1 A. Yes.

2 Q. All right. Do you recall being asked whether Sheriff  
3 Jones had any discussions with you about the e-mail that's on  
4 page 19 of Exhibit P-13?

5 A. Yes.

6 Q. All right. How do you know whether Sheriff Jones ever  
7 saw this e-mail?

8 A. I don't.

9 Q. Did you have some sort of expectation that Sheriff Jones  
10 would review the e-mails that had been sent to his  
11 predecessor?

12 A. I don't know that I had any expectations one way or the  
13 other for that.

14 Q. Let's talk about staffing. Would you agree that more  
15 than 90 percent of what we're here talking about during this  
16 hearing relates one way or another back to staffing issues?

17 A. I don't know if I can quantify the percentage of what  
18 we've talked about. I know we've talked about staffing.

19 Q. Is there any issue more important to RDC than staffing?

20 A. Staffing is critically important, yes.

21 Q. Can you think of any other issue that's more important?

22 A. Physical plant is as important as well.

23 Q. But don't you agree you need staffing to make sure that,  
24 once repairs are made, the inmates don't tear it back up  
25 again?

1 A. Yes, that's important.

2 Q. That's staffing issue; right?

3 A. Yes.

4 Q. All right. And look at page -- this is page 21 of  
5 Exhibit P-13. Everything on this page is a staffing issue,  
6 isn't it?

7 A. Yes.

8 Q. And there's ripple effects. So, like, the heading  
9 "Medical Security," so staffing impacts issues like med pass  
10 and so forth, doesn't it?

11 A. I'm sorry. Can you rephrase your question?

12 Q. Staffing impacts other issues; for example, if there's  
13 enough people to escort medical personnel to see somebody, to  
14 see a detainee in a unit?

15 A. Yes.

16 Q. And hall escort, you need staffing to have hall escorts,  
17 don't you?

18 A. Yes.

19 Q. Do you contend that Sheriff Vance told you that staffing  
20 did not need to increase at Rankin -- excuse me, at RDC?

21 A. I don't recall having a conversation with Sheriff Vance  
22 about that.

23 Q. Do you recall any sheriff telling you that they were of  
24 the belief that staffing did not have to increase at RDC?

25 A. If I understand your question, you're asking me if any

1 sheriff told me that staffing did not have to increase?

2 Q. That's my question.

3 A. No, I do not recall that.

4 Q. Did anybody with the Board of Supervisors tell you that  
5 or any words to that effect?

6 A. No.

7 Q. Did you ever meet with Sheriff Jones before he took  
8 office regarding RDC?

9 A. So I'm unsure how to answer that. I believe I met with  
10 Sheriff Jones after he was elected, but not before he was  
11 elected, no.

12 Q. Okay. So did you meet with Sheriff Jones on  
13 approximately November 24th, 2021, in the Board of  
14 Supervisors' conference room?

15 A. I don't recall the date, but, yes, that was where we met.

16 Q. So if it was Oct- -- excuse me.

17 If it was November 24th, 2021, I will represent to you  
18 that that was about a day after the show cause order was  
19 entered. Okay? At that meeting on or about November 24th,  
20 2001 [sic], were you, Supervisor Calhoun, Sheriff Jones, and  
21 Tony Gaylor present?

22 A. Yes.

23 Q. All right. And is it your testimony that the consent  
24 decree was not discussed at that meeting?

25 A. I believe that was one of the things that was brought up,

1 yes.

2 Q. And it was brought up and it was discussed in some amount  
3 of detail, wasn't it?

4 A. I don't recall exactly what was talked about in that  
5 meeting. We covered a lot of areas.

6 Q. Do you recall if at that meeting Sheriff Jones told you  
7 that you were his field training officer on the consent  
8 decree?

9 A. I do.

10 Q. He told you that?

11 A. He did.

12 Q. Did you tell -- well, strike that.

13 Did you say at that meeting, "I'm not sure we're going  
14 into receivership, but if we do, there's a strong possibility  
15 I'll be the receiver," or words to that effect?

16 A. I did not.

17 Q. You deny that?

18 A. I do.

19 Q. As of December 1st, 2021, did you have a command staff in  
20 place of your choosing?

21 A. Mostly, yes.

22 Q. Do you remember talking about this the other day on  
23 cross-examination? Is this your declaration that was filed on  
24 December 17th, 2021, ECF-106?

25 A. Yes.

1 Q. At paragraph 4 does it read, "As of December 1, 2021, I  
2 now have in place a command staff of my choosing"?

3 A. Yes.

4 Q. Does paragraph 6 read in part, "The County recently  
5 transitioned the training program to me from the sheriff, and  
6 this has allowed me, in conjunction with the training officer  
7 on my staff, to plan improvements to the training curriculum  
8 for detention staff"?

9 A. Yes.

10 Q. Does paragraph 8 in part say "In November 2021 recruiter  
11 Bernard Moore was reassigned to me to strengthen recruiting  
12 efforts related to the RDC and the work center"?

13 A. Yes.

14 Q. Paragraph 9 read in part, "With respect to staff  
15 retention, Hinds County Board of Supervisors approved a  
16 5 percent pay raise for all staff at the RDC along with  
17 premium pay"?

18 A. Yes.

19 Q. Did you view those things as a distinct lack of -- strike  
20 that.

21 Did you view those things as a distinct lack of support  
22 from the County?

23 A. No.

24 Q. Paragraph 11 of your declaration, does it read in part,  
25 "To date, the County has devoted resources to renovating the

1 living units at the facility in an effort to set those units  
2 up for direct supervision"?

3 A. Yes.

4 Q. Paragraph 12, in part does it say "We also have looked to  
5 make certain that detention officers conduct security rounds  
6 at required intervals. To that end, the County recently  
7 approved a request for funding to purchase and install an  
8 electronic rounds system"? Does it say that?

9 A. Yes.

10 Q. Does paragraph 14 say in part "The County also has  
11 renegotiated its agreement with Quality Correctional Health  
12 Care (QCHC), the contractor providing medical and mental  
13 health care at RDC"? Does it say that?

14 A. Yes.

15 Q. Now, I think I may have asked you this -- I apologize --  
16 from the first time you were here, but do you know the cost of  
17 that contract to the County?

18 A. I don't.

19 Q. Okay. Paragraph 16: "The County also has under  
20 construction a dedicated mental health living unit, Unit B1.  
21 The unit is undergoing renovations which will allow it to  
22 serve as the RDC's unit for detainees."

23 Did I read that correctly?

24 A. Yes.

25 Q. Paragraph 18: "With respect to efforts to address and

1 minimize the risk of suicides at RDC, we currently have two  
2 padded rooms under construction, and once completed, these  
3 rooms will be used to aid efforts to monitor and control  
4 detainees who present suicidal threats."

5 Did I read that correctly?

6 A. Yes.

7 Q. And we talked last time about the County providing two  
8 assigned maintenance employees to focus exclusively on  
9 maintenance issues at RDC. Do you recall that?

10 A. Yes.

11 Q. And you were pleased with the performance of those two  
12 maintenance employees; correct?

13 A. Yes.

14 Q. And is any of what I've just gone over with you in your  
15 declaration indicative of what you referred to on page 1 of  
16 P-13 as a distinct lack of support from the County?

17 A. No.

18 MR. SHELSON: May I have a moment to confer, Your  
19 Honor?

20 THE COURT: You may.

21 BY MR. SHELSON:

22 Q. Major Bryan, I want to clear up one more thing. When the  
23 Court was asking you questions, was it your testimony that you  
24 had not discussed the consent decree with the sheriff or  
25 anyone else with the County?

1 A. No. I believe what I said was we hadn't had meetings  
2 specifically targeting the consent decree. I don't believe I  
3 said we've never talked about it.

4 Q. Okay. So --

5 A. If I did, I misspoke.

6 Q. So you think that you answered with regard to  
7 specifically targeting, but you do acknowledge that you had  
8 discussions regarding the consent decree with Sheriff Jones  
9 and other County officials?

10 A. Yes.

11 Q. Do you know approximately how many times?

12 A. No, I don't.

13 Q. On approximately November 18th, 2021, did Alan White, an  
14 undersheriff of Hinds County, issue a memo authorizing Hinds  
15 County Sheriff Office deputies to work overtime at the  
16 detention center?

17 A. Yes.

18 Q. Was that indicative of a distinct lack of support?

19 A. Issuing a memo, while supportive, isn't as supportive as  
20 concerted efforts to change staffing levels at the jail  
21 pursuant to that memo.

22 Q. And things to assist, though, with that are things like  
23 pay raises?

24 A. No. Specifically about that memo, if the memo -- The  
25 memo was issued to authorize deputies to work overtime.

1 Q. Do you acknowledge that the County took efforts to  
2 increase staffing?

3 A. Well, if I could finish my first comment.

4 Q. I'm sorry. I thought you were done.

5 A. No, sir. So the memo was issued about deputies working  
6 overtime at the jail. That is supportive. However, if that  
7 memo doesn't change anything because of a lack of emphasis put  
8 on that by senior staff at the sheriff's office, then that's  
9 not as supportive as it could be.

10 Q. Well, that was one thing the County did regarding  
11 staffing. You acknowledge, though, there are other things --  
12 we just went over some of them -- that the County did  
13 regarding staffing?

14 A. I did, yes, sir.

15 Q. The most recent of which was a starting salary pay raise  
16 to \$31,000?

17 A. Yes.

18 MR. SHELSON: No further questions, Your Honor.

19 THE COURT: All right. Thank you.

20 Is this witness finally excused, or does the Government  
21 wish to reserve the right to call this witness as a rebuttal?

22 MS. COWALL: Your Honor, we'd reserve the right to call  
23 this witness as a rebuttal witness, if necessary.

24 THE COURT: All right. In that regard, Major Bryan,  
25 you shall remain sequestered; that is, do not discuss your

1 testimony with anyone or allow anyone to discuss it with you.

2 I would imagine you are excused for the day for sure, and the  
3 parties will contact you if you're needed to testify again.

4 THE WITNESS: Yes, sir. Thank you.

5 THE COURT: But thank you for accommodating me.

6 We are now at our lunch hour. I think we should go  
7 ahead and take it now. I know the next witness is not going  
8 to be less than an hour, so let's be prepared to start back up  
9 at 1:10 p.m. and we'll just go from there. We'll go from  
10 there. 1:10 p.m. Thank you.

11 We're in recess.

12 (A lunch recess was taken.)

13 THE COURT: You may be seated.

14 I assume there's nothing that we need to take care of.  
15 Is the United States ready to call its next witness?

16 MS. VERA: Yes, Your Honor. The United States calls  
17 Jim Moeser.

18 THE COURT: Okay.

19 **JIM MOESER,**

20 **having been first duly sworn, was examined and**  
21 **testified as follows...**

22 **DIRECT EXAMINATION**

23 **BY MS. VERA:**

24 Q. Good afternoon, Mr. Moeser. How are you today?

25 A. Good.

1 Q. Could you please tell us your current occupation?

2 A. I'm currently retired with the exception of a periodic  
3 consulting work and this monitor project.

4 Q. And where do you live?

5 A. In Wisconsin.

6 Q. Do you have expertise in juvenile custody issues?

7 A. Yes.

8 Q. Juvenile programming needs?

9 A. Yes.

10 Q. And in that area of juvenile justice, do you have any  
11 specialty areas?

12 A. I think programming is one of them; discipline, sort of  
13 discipline/behavior management would be another; some work and  
14 expertise in facility design and construction, not as an  
15 architect but in terms of operations and program general  
16 supervision and management experience and expertise.

17 Q. Have you worked as an administrator with responsibility  
18 for youth justice programming?

19 A. Yes.

20 Q. Have you worked as an administrator with responsibility  
21 for facilities holding youth?

22 A. Yes.

23 Q. And responsibility for training relevant to juvenile  
24 justice?

25 A. Yes.

1 Q. Do you have other consulting experience in juvenile  
2 justice and administration?

3 A. I've done other work in sort of evaluating facilities  
4 operations, also have done a fair amount of consulting around  
5 issues of population management and control and also in more  
6 community-based probation operations and also victim-offender  
7 conferencing and other gang prevention. There are kind of a  
8 variety of other work that I've done in those areas.

9 Q. Do you have experience implementing reform in a custodial  
10 setting, a youth custodial setting?

11 A. Yes.

12 Q. And can you briefly summarize your educational  
13 background?

14 A. So I have a bachelor's degree in social work from the  
15 University of Wisconsin-Oshkosh; I have a master's degree, a  
16 60-credit master's degree, from Arizona State University in --  
17 counseling degree with a focus on community agency counseling;  
18 and I did complete additional work towards a PhD in counseling  
19 psychology as well as -- as well as quite a range of hundreds  
20 of hours of other workshops and trainings.

21 Q. Have you served on committees or working groups in the  
22 juvenile justice area?

23 A. Yes. Quite a few. I've been involved -- been on  
24 committees related to the development of curriculum for youth  
25 supervision staff in juvenile facilities. Detention officers

1 is the term Wisconsin uses for that. So I worked for the  
2 group developing the curriculum components for that, for the  
3 training for that.

4 I was on a committee that also wrote the -- what became  
5 the regulations for operating detention facilities in the  
6 state of Wisconsin.

7 I've worked on numerous other committees. I served on  
8 the federal Advisory Committee for Juvenile Justice and was  
9 the chair and vice chair of that group.

10 I served a couple different terms on the Governor's  
11 Juvenile Justice Commission.

12 I've been involved working with other committees on  
13 developing model probation guidelines.

14 And there's many more. I'm not thinking of all of them  
15 off the top of my head. Those are probably the relevant ones.

16 Q. Okay. And have you authored publications regarding youth  
17 in the criminal justice system?

18 A. Yes. Kind of both in terms of -- some in terms of  
19 specifically related to confinement facilities.

20 I was a coeditor of a project focusing on confinement --  
21 or reentry strategies for confinement facilities, and I was  
22 coeditor and wrote a couple chapters of that publication.

23 Wrote several chapters in what is called the Desktop  
24 Guide to Best Practice -- or Good Practice for Confinement  
25 Facilities -- for Juvenile Confinement Facilities. That is

1 now part of the National Institute of Corrections' library.  
2 That was done through the National Partnership for Juvenile  
3 Services.

4 I've written -- I published, oh, four or five articles on  
5 other aspects of the juvenile system related to balance and  
6 restorative justice, reentry issues, and those are the ones  
7 that come to mind.

8 MS. VERA: Could we pull up the exhibit marked PX-7,  
9 please?

10 BY MS. VERA:

11 Q. Mr. Moeser, do you recognize this document?

12 A. Yes.

13 Q. And what is it?

14 A. That looks like the resume or CV that I sent to  
15 Department of Justice late last year.

16 Q. And is this an accurate summary of your work experience  
17 and educational background?

18 A. Yes. You know, for the most part. I mean, there may be  
19 a few dates here and there that are -- as I tried to  
20 recollect, may be quite -- not quite correct, but otherwise  
21 the general -- the elements are correct and the time frames  
22 are basically correct.

23 MS. VERA: Your Honor, the United States moves to admit  
24 P-7 into evidence.

25 THE COURT: Any objection?

1 MR. MORISANI: No objection.

2 THE COURT: PX-7 will be received into evidence.

3 (Plaintiff's Exhibit 7 entered.)

4 MS. VERA: Thank you. And, Your Honor, the United  
5 States tenders Jim Moeser as an expert in juvenile justice and  
6 administration.

7 THE COURT: Any objection?

8 MR. MORISANI: Your Honor, just subject to the -- I  
9 think it was Docket Number 134, but I think Your Honor  
10 addressed it yesterday, so...

11 THE COURT: Okay. Subject to the objection -- the  
12 continuing objection?

13 MR. MORISANI: Yes, sir.

14 THE COURT: Okay. Mr. Moeser will be allowed to  
15 testify in the designated areas.

16 MS. VERA: Thank you, Your Honor.

17 BY MS. VERA:

18 Q. Mr. Moeser, I'd like to talk briefly about your role in  
19 this case. Could you briefly describe your area of  
20 responsibility on the monitoring team?

21 A. So I've had the primary responsible [sic] for assessing  
22 the conditions of the agreement as it relates to youthful --  
23 what the agreement calls youthful prisoners. These are youth  
24 under the age of 18 who are charged as adults.

25 Q. And is there a specific terminology that the County uses

1 for those youth who are charged as adults?

2 A. They use the term "JCAs," juveniles charged as adults.

3 Q. And in your capacity as a member of the monitoring team,  
4 when did you first tour the jail in Hinds County?

5 A. The baseline visit in October of 2016 was the baseline  
6 visit, and the monitoring activities started in spring of --  
7 or early after the new year of 2017.

8 Q. And when did you first tour Henley-Young Juvenile Justice  
9 Center?

10 A. At that first baseline visit in the fall of 2016.

11 Q. Let's talk about the activities that you've engaged in  
12 since then to monitor compliance. How many visits total have  
13 you made to Hinds County to visit the jail or Henley-Young?

14 A. In all total, counting the baseline visit, there have  
15 been 17 visits, with ten of those being on-site, the last  
16 seven being virtual.

17 Q. And did you visit Henley-Young in all of the on-site  
18 visits?

19 A. Yes.

20 Q. And what was the most recent on-site visit?

21 A. I think February of 2020.

22 Q. And what was the most recent virtual visit?

23 A. I did virtual visit the week of January 31st, a couple  
24 weeks ago.

25 Q. 2022?

1 A. 2022. And I should add that for a period in 2017 and  
2 '18, I visited both Henley-Young and -- while there was still  
3 a fair number of youth at RDC, I was in both facilities for  
4 those visits.

5 Q. Okay. And how many monitoring reports have you assisted  
6 with?

7 A. Fifteen. I have submitted at least my report as it  
8 relates to the most recent one, which I think would be the  
9 16th.

10 Q. To do monitoring visits and assessments, whether on-site  
11 or remote, do you review documents?

12 A. Yes.

13 Q. And in the context of remote visits, how are you able to  
14 review documents?

15 A. So before the remote visits, we would request through  
16 Ms. Simpson a list of documents that we'd like to get  
17 electronically. That was one source, and the staff at  
18 Henley-Young would put together a package of materials. Those  
19 would typically go to the compliance coordinator for Hinds  
20 County, and he would download them on to a drive that we could  
21 access.

22 Also during the term of the -- kind of over time, he also  
23 adds things as they occur, so things like incident reports are  
24 considered immediate notifications. Some things like that are  
25 also downloaded by him, and we're able to access those as

1 well.

2 Q. And have you been able to conduct interviews for these  
3 remote visits?

4 A. Yes. Combination. Most recently all by Zoom, which was  
5 helpful for the purpose. Initially some of those were more so  
6 by phone and sort of increasingly used Zoom as a tool to do  
7 interviews.

8 Q. About how many interviews have you conducted in the past  
9 several remote visits?

10 A. I would say its range is from eight to ten.

11 Q. And do you do that over the course of a day, a few days,  
12 a week?

13 A. It's usually three days, so it's maybe into a fourth day  
14 depending on scheduling. There's been times when I follow it  
15 up even on a fifth day if there was somebody not available  
16 during that first part of the week.

17 Q. For the monitoring reports going back to the beginning  
18 all the way through the present, to make your assessment, do  
19 you talk with staff?

20 A. Yes.

21 Q. Do you review staffing figures, numbers, shift reports?

22 A. I have more recent- -- well, I guess there's a history;  
23 right? So initially during the actual site visits, I would  
24 typically ask about staff vacancies, how many there were, kind  
25 of what were the trends in that.

1       More recently in the last few years, last two or three  
2 years, been getting periodic organizational charts that show  
3 vacancies, and I can actually look at those numbers. I've  
4 periodically asked for a more current organizational chart and  
5 then discuss -- either at the time of the site visit or on  
6 occasion in between if we had a conversation, I might ask  
7 about vacancies.

8 Q. Do you review programming schedules?

9 A. Yes. I review -- I typically review a sample of  
10 programming schedules. Well, there's two things. One is  
11 there's a daily schedule for activities that are supposed to  
12 occur on the unit. There's a -- that's available. When  
13 on-site, you can look at a unit log to compare, you know, what  
14 was scheduled versus what was actually conducted.

15       I also get a -- request a sample of program activities  
16 that are conducted by the youth support specialists or the  
17 clinicians in terms of the content of the groups -- the  
18 content of the session and sort of the attendance.

19       I do not get reports on, for example, when they go out  
20 for recreation activities, out to the backyard. I don't get  
21 reports for those kinds of things, but I do for the actual  
22 programs that are scheduled and run by the youth support  
23 specialists.

24 Q. You mentioned youth support specialists a couple times.  
25 Could you just explain what that is?

1 A. Yes. The youth support specialists were added to the  
2 contingent of staff at Henley-Young prior to my arrival as  
3 part, I think, really of the agreement with Southern Poverty  
4 Law Center. They are, I think -- originally had been called  
5 case managers. They have sort of a day-to-day, sort of  
6 nuts-and-bolts interaction with youth around how the day is  
7 going.

8 For example, the youth support specialists help maintain  
9 family contact. They help with scheduling of treatment team  
10 meetings, and then they also have -- run different -- a  
11 variety of different programmatic groups with youth over the  
12 course of a week. They respond usually following an incident  
13 to check on the youth if there's been some incident of  
14 significance.

15 So they're kind of a day-to-day -- sort of a day-to-day  
16 counseling focus, not a therapeutic focus in the long run, but  
17 for day-to-day counseling approach.

18 Q. Okay. Going back to what you do to make your  
19 assessments, do you review school attendance records?

20 A. I have when I've gotten them. I was able to do that  
21 easier on-site. The last virtual visit, not this one in  
22 January but prior to that, I'd gotten some attendance records  
23 that were, frankly, hard to decipher. This time I did not --  
24 I asked for but did not get attendance records.

25 Q. Do you review incident reports?

1 A. Yes. Again, up until October of last year, I would ask  
2 for specific types of incident reports, suicide, self-harm  
3 incidents, incidents in which maybe a youth was injured, and  
4 then I would also ask for a sample of incident reports rather  
5 than every incident report.

6 Starting in October, I've been getting a -- usually on  
7 Mondays, a document that contains a copy of the incident  
8 reports from the prior week so I can review those. I also  
9 get -- also many of those are sent to Synarus Green as the  
10 compliance coordinator, and after -- he puts them in the  
11 shared drive that I can access, and he will usually send an  
12 e-mail saying he's added to the drive.

13 Q. Do you review documentation of observation of youth who  
14 are in their rooms for periods of time and not allowed to  
15 leave their rooms?

16 A. What I asked for and what I got, kind of slightly  
17 different. I asked for observation logs of any youth that  
18 were confined for disciplinary reasons. I also asked for --  
19 and I got those. I asked for observation logs of any youth  
20 that were confined for more than an hour for any other reason.  
21 I think that's still a work in progress to try and get that  
22 information documented. For the youth that were in rooms for  
23 disciplinary reasons, formal disciplinary reasons, I did get  
24 observation logs.

25 Q. Have you reviewed existing policies for Henley-Young?

1 A. Yes, although I have -- many of them are 2015 or 2017. I  
2 read them earlier in my time with them. They haven't changed.  
3 I wouldn't say I was familiar or overly fresh on every detail  
4 of the policies.

5 Q. When you have been on-site in the past, have you observed  
6 operations?

7 A. Yes.

8 Q. Have you walked through the facility?

9 A. Yes.

10 Q. Have you interviewed residents?

11 MR. MORISANI: Objection.

12 A. Yes.

13 MR. MORISANI: Leading.

14 THE COURT: Objection overruled.

15 BY MS. VERA:

16 Q. Have you interviewed residents?

17 A. Yes. In two different ways. I've on some occasions  
18 asked to meet with youth individually. On some occasions I've  
19 gone on to the unit and talked with maybe a small group of  
20 youth.

21 Q. And have you reviewed residents' records?

22 MR. MORISANI: Objection. Leading.

23 THE COURT: Objection sustained.

24 Don't lead your witness, please.

25 BY MS. VERA:

1 Q. What else did you review when you would go on-site,  
2 Mr. Moeser?

3 A. I usually would start the on-site visit by -- kind of the  
4 typical process was to first meet with the executive director,  
5 get a sense of maybe any changes that had occurred, any  
6 concerns that had developed. This is when there was an  
7 executive director. If not, I would meet with the operations  
8 manager to get a sense of any changes, you know, concerns they  
9 may have.

10 I would then ask for and got what was called -- it was  
11 called the residence master file for every youth that was  
12 there, all the JCA youth that were there, and I would go  
13 through those records. Those master files contain information  
14 from their admission, their initial screening at intake, a  
15 note about their response on the mental health screening tool,  
16 incident reports, observation logs if they were confined for a  
17 period of time. And I think prior -- you know, any prior  
18 admissions they had had at the facility I believe were also in  
19 those files.

20 And I would use those files to kind of then create a --  
21 probably of series of sort of questions in particular around  
22 certain things that might have occurred.

23 I would then have meetings established with school  
24 principal, the operations manager and the quality assurance  
25 manager, selected staff. I would tour the facility, sit on

1 the -- you know, on the unit, spend some time on the unit,  
2 spend some time in the school classroom, things like that.

3 Q. You said that -- excuse me.

4 You said that during these on-site visits, you met with  
5 the executive director, the school principal, the operations  
6 manager, the quality assurance manager, and other staff.

7 A. Yes.

8 Q. Have you met with -- have you met with those individuals  
9 remotely since the onset of the COVID pandemic?

10 A. Yes. By and large, it's the same -- it's the same group:  
11 the youth support specialists, when there's been a -- the  
12 clinical staff -- clinicians for therapy, if there's been a  
13 treatment director, kind of the whole leadership team,  
14 training director. Those are also the same folks I would talk  
15 with virtually.

16 Q. Have you reviewed the settlement agreement and stipulated  
17 order?

18 MR. MORISANI: Objection. Leading.

19 A. Yes.

20 THE COURT: Objection overruled.

21 BY MS. VERA:

22 Q. And do you make assessments in the monitoring reports?

23 A. Yes.

24 Q. What are those assessments?

25 A. I try to make an assessment as to -- as to whether they

1 are really meeting the -- you know, the conditions that are  
2 listed, you know, to what extent they're meeting them, what  
3 are they doing to try and meet them if they haven't already,  
4 you know, do they have plans for improvement to meet them, and  
5 try and assess, you know, kind of to what extent they meet  
6 those conditions.

7 Q. And the conditions you're referring to are based on what?

8 A. Well, the conditions that are a number of items in the  
9 original consent decree. I don't remember how many. Ten or  
10 12, somewhere in that range. There are several additional  
11 items or more specific items in the settlement -- in the  
12 settlement agreement from January of 2020, so those kind of  
13 form the outline of the -- of my focus. I mean, I do see  
14 other things and notice other things, but my, really, focus is  
15 on what extent they're meeting those particular items.

16 Q. When you talk about noticing other things, not  
17 specifically, but what do you mean? What other things would  
18 you notice?

19 A. Well, I notice kind of the general condition of the  
20 facility. Is it clean? Are there -- I ask about, for  
21 instance, are there physical plant issues that they're  
22 struggling with? Do they have safety concerns or issues that  
23 are of concern? Are the youth active -- actively engaged in  
24 something or are they kind of milling around. Look at the  
25 individual -- look at some -- I don't always look at all --

1 certainly don't look at all the rooms but look at a room,  
2 cell, you know, what's the condition of the cell? Is the  
3 water pressure working? That's something that I've noticed in  
4 the past. Are there, you know, kind of the general  
5 environmental factors that contribute to the facility and  
6 contribute to the safety of the youth?

7 Q. And in your monitoring -- in the monitoring reports and  
8 the assessments you make in those reports, whether the more  
9 recent ones where you've done a remote visit or in the past  
10 when you've visited on-site, in all of the reports, are you  
11 confident that you've had enough information to make those  
12 assessments?

13 A. Yes. I mean, there are some limitations to not being  
14 able to be on-site. I mean, there's always -- I always would  
15 prefer to talk to somebody directly. I had hoped to get down  
16 there this last visit as well. Unfortunately, I was diagnosed  
17 with COVID a few days before, you know, and I haven't seen the  
18 physical plant for a while, including the -- I have not  
19 actually seen the portable classrooms that they did add to see  
20 how they're located and how manageable that might be for them  
21 to be used. So there are some limitations, but in terms of  
22 the actual agreement or -- excuse me, the items in the consent  
23 decree or the settlement agreement, I'm confident that I have  
24 enough information.

25 Q. And do you have contact with Henley-Young employees in

1 between the official monitoring tours?

2 A. Some. Sometimes it's a follow-up from something they've  
3 sent me, maybe an incident, an update about COVID issues, for  
4 example. As I get incident reports, if I see something that's  
5 particularly alarming, I may follow up and contact someone to  
6 get more information. I wouldn't say -- I periodically send  
7 materials to the director. I've sent materials to  
8 Ms. Warfield, who's the treatment coordinator. I send e-mails  
9 periodically about training programs I see online through the  
10 National Partnership for Juvenile Services. I don't have a  
11 regular routine all (AUDIO GAP).

12 Q. Does your role in this case also include providing  
13 technical assistance?

14 A. Yes.

15 Q. To what extent?

16 A. Well, I would say I provide limited technical assistance,  
17 and generally it's, again, around a specific issue. I  
18 provided feedback on, for example, the classification  
19 checklist that they supposed to -- are supposed to use. I  
20 provided materials to Ms. Warfield about other sort of program  
21 models. I've linked the director, or Mr. Burnside as the  
22 operations manager, to various training programs or resources  
23 for information.

24 I -- there's kind of a balance that I in my mind do  
25 probably less than some of the other members of our team.

1 There are also -- and for a couple of reasons. One is the  
2 agreement itself has a provision that they obtain services  
3 from someone to help them develop a behavioral management  
4 program, and they really need to do that. I don't want to --  
5 typically don't want to start giving advice about a particular  
6 program that I'm not then able to spend the time to follow  
7 through and train staff, much more -- much more time than I  
8 would be able to commit.

9 They also have been -- they've been getting some  
10 assistance from Anne Nelsen, who is the monitor from the SPLC  
11 agreement. She has a weekly call with them, and they have  
12 just recently, with the help of SPLC, retained the services of  
13 a consultant who is well respected in the field to help with  
14 some of the initial assessment, case planning, and hopefully  
15 ultimately behavior management issues.

16 I have been trying to stay in touch with Ms. Nelsen, for  
17 example. I'm concerned about making sure we're not giving  
18 conflicting directions or advice, so I take a little bit more  
19 of a back seat on that.

20 Q. And so just to clarify, when you're talking about  
21 Ms. Nelsen and the SPLC agreement, what agreement are you  
22 referring to?

23 A. I believe the Southern Poverty Law Center, you know,  
24 filed a suit of some kind and have an agreement with  
25 Henley-Young in particular that goes back a number of years

1 prior to our involvement and relates a lot to sort of the  
2 numbers of youth, some of the programming issues, and some of  
3 the mental health treatment components.

4 Q. And -- excuse me.

5 And Ms. Nelsen is who?

6 A. Ms. Nelsen is a, you know, monitor. She's -- lives in --  
7 I want to say Utah or Idaho. I forgot. Utah, I believe.  
8 Yeah, Utah.

9 Q. That's okay. In the context of the other agreement, what  
10 is her role?

11 A. Yeah. She is the monitor for that agreement and also  
12 does provide some weekly contact with them and gives them some  
13 advice and program ideas.

14 Q. And you said you're in communication with her?

15 A. Yes.

16 Q. About how often do you speak with Ms. Nelsen to  
17 coordinate as you described?

18 A. Probably speak to her twice a month, probably another  
19 couple e-mails a month back and forth. Some of that depends  
20 on timing. For example, she was just there on-site recently,  
21 so she was able to provide me with some information. I'll do  
22 the same, you know, after -- at some point here soon after to  
23 say, okay, here's my observations from the last visit, the  
24 last virtual visit. If there's a particular issue of concern,  
25 whether it's an incident or some changes they're making to

1 some significant part of the program, we might communicate  
2 about that.

3 Q. Let's move on and talk about Henley-Young and the  
4 facility and the people who work there. Who currently resides  
5 at Henley-Young?

6 A. There are two types of youth. There are -- the largest  
7 percent -- the largest number of youth are juveniles charged  
8 as adults that are housed there pursuant to being charged as  
9 an adult through the adult court system, and they're housed  
10 there.

11 And then there are a number of -- smaller number,  
12 typically much smaller number, of youth held through the youth  
13 court system, traditionally for short -- typically for much  
14 shorter periods of time. For whatever reason, either --  
15 typically youth that are held at secure detention in  
16 situations like that are youth who are either deemed to be a  
17 risk of harm to the community or a risk of -- sort of high  
18 risk of running away so that they can't be processed through  
19 the system. Those decisions are made by the youth court  
20 judge.

21 Q. So with regard to the JCAs, how long do they typically  
22 stay at Henley-Young?

23 A. Well, there are, you know, kind of a handful over the  
24 course of time that come and go fairly quickly, either get  
25 bailed or bond out somehow, but otherwise they stay for pretty

1 extended periods of time. It's difficult to say an average,  
2 but I would say nine to -- nine months to two years would  
3 be -- capture most of them.

4 Q. Do any youth stay for longer than two years?

5 A. There have been. There's a youth there now that's been  
6 about 880 days, two years and four or five months. I think --  
7 I'm trying to remember whether there's been other kids that  
8 have been there two years or more. With the initial group of  
9 kids when I first came, there had been some youth who'd been  
10 RDC for more than two years.

11 Q. What's the approximate population of Henley-Young total?

12 A. I think the average is probably around 27. The JCA  
13 numbers -- and that's perked up recently, so they've been much  
14 closer to 30 to 32 youth with as many as 28 JCA youth and half  
15 a dozen youth court youth.

16 Q. And is there a breakdown as to boys and girls in the  
17 facility?

18 A. Sure. The vast, vast majority are boys, whether  
19 either -- whether it's JCA youth or youth court. Probably, I  
20 would say on average, there's only one -- if you took an  
21 average, there's maybe one girl, JCA girl, maybe only one  
22 youth court girl. There will be times when there will be two  
23 or three and days where there will be zero.

24 Q. And where do the -- where do the youths, the JCAs and the  
25 youth court youth, where do they -- where do they sleep; where

1 do they stay? What's the configuration for housing?

2 A. There are four living units, or pods, within  
3 Henley-Young, all equal size. I think all have the capacity  
4 for 21 -- directly 21 youth is the largest capacity. The JCA  
5 boys are traditionally housed in two of those units. There  
6 are then -- there's then a unit where there's a smaller number  
7 of youth court boys, and then there's a girls' -- and then  
8 there's a fourth unit that houses girls that may have a mix of  
9 JCA and youth court girls.

10 And given the number of JCAs, there have recently been a  
11 couple JCA youth boys on the -- they call -- formerly called  
12 the youth court boys' unit. So they try and balance the youth  
13 out a little bit so as not to overwhelm any of the units and  
14 also try and make sure the youth are safe in their units.

15 Q. Other than -- well, can you describe the facility layout  
16 briefly to some extent?

17 A. Well, you know, the front entry area and part of the --  
18 part of Henley-Young itself is really a youth court facility.  
19 So there's a section of the facility that is a youth court,  
20 has some -- I guess I would say they're court officers or --  
21 excuse me, probation officers perhaps. I'm not sure of their  
22 official title.

23 You come into the facility. It's a fairly good-size  
24 lobby, waiting area, of parents that are coming to court with  
25 their youth for youth court to wait there. And then there's a

1 hallway into more of an administrative area where the  
2 operations manager, training folks, quality assurance managers  
3 are. There's then another entry into the secure part of the  
4 facility. There's a control -- kind of a central control area  
5 there initially that has the ability to observe and control  
6 doors.

7 Once you enter the secure portion, you can take a couple  
8 different directions, but basically there's a multipurpose  
9 room that gets used for kind of all kinds of things. It's not  
10 very large. There's a school -- the classroom area comes in  
11 there fairly quickly. There are four -- I think four  
12 classrooms in there, fairly cramped setup.

13 And then you come to kind of what I'd just simply say a  
14 T. You come to a T, a fork in the road, whatever you want to  
15 call it. One direction you go leads off to two of the pods.  
16 The other direction leads off to two of the other -- the other  
17 two pods. It goes then -- you get to a point where you go to  
18 the right for one pod, to the left for another pod. And then  
19 there's a recreation area in the back that's fenced in.

20 The individual pods them selves are multi- -- two-story.  
21 I think there's 20 rooms altogether. Open steel tables bolted  
22 to the floor, poorly furnished, acoustically terrible, and  
23 that's where they basically live and do a lot of their  
24 activities.

25 Q. You said there are steel tables in the pods and that

1       they're poorly furnished. Can you just explain what you mean  
2       by that?

3       A. Well, you know, youth -- I mean, there are a whole range  
4       of things, but youth need a place to sit down and relax a  
5       little bit, whether it's watching TV or reading a book or  
6       playing cards with a friend or -- friend or one of the other  
7       residents, however they're called. And there's no extra  
8       chairs, there's no extra tables, so there's no extra furniture  
9       for them to utilize in any way. Anything they do has to be  
10       done at those steel tables, which means all the youth are  
11       essentially together sort of at one table -- or two tables,  
12       really. I think there's three tables, but it's spread across  
13       two tables usually. And that's about it. I mean, there's  
14       no -- yeah, there's no ability to do anything else other than  
15       if you're going to sit down, you sit at those steel tables,  
16       picnic tables.

17       Q. You testified earlier about therapeutic activities or  
18       groups, I believe?

19       A. Yes.

20       Q. Where do they do those?

21       A. Well, they do them where they can. They are sometimes  
22       done in the multipurpose room, which is off the unit, if they  
23       can -- if they have staff available to bring youth to the  
24       multipurpose room. Otherwise, they basically do them on the  
25       unit itself. They did add a couple portable classrooms kind

1 of in the back of the facility that were intended to be used  
2 for small group work, but they don't have the staff available  
3 to always escort and supervise youth out in that area. So  
4 most of the groups are run in the multipurpose room, I think.

5 There's one small office for the psychologist -- or  
6 there's one small office there that's used for therapy or some  
7 of the staff, but there's very other little space for any kind  
8 of therapeutic activities or group activities.

9 Q. What about bathroom and shower facilities?

10 A. Well, each of the units have a shower and, you know,  
11 bathroom area that youth can access, and there are, you know,  
12 times through the day when they -- when they have time where  
13 they can use a shower if they need to, if they do. Assuming  
14 there's water pressure.

15 Q. Pardon?

16 A. Assuming there's water pressure.

17 Q. Is that an issue?

18 A. It has been. You know, infrastructure problems in that  
19 area seem to pop up either through cold weather or other  
20 reasons. I mean, it's not -- several times a year, if not  
21 more, when there's not sufficient water pressure at  
22 Henley-Young for the shower or flush toilets. So they have to  
23 escort the youth and try and get the youth to Raymond, RDC,  
24 for showers. They use bottled water to try and accommodate  
25 that for as long as it takes.

1 Q. And you said that has happened several times a year?

2 A. Yes.

3 Q. Do you know when the most recent time might have been?

4 A. You know, I don't. I'm sure it was -- I'm sure it was  
5 within the last quarter of 20- -- excuse me, last quarter of  
6 last year, but I don't have a date.

7 Q. Do you know of any other infrastructure issues?

8 A. The roof leaks. I think that is an issue. I think it's  
9 sort of -- you know, sort of increasingly a problem, I think,  
10 areas that are either stained or affected by that. One of the  
11 staff did report that the roof leaks often end up shorting out  
12 the Wi-Fi for youths for school, for teaching, but I think  
13 that's -- they had repaired -- did a good job repairing the  
14 control units in the control area that operate the doors.  
15 That's been replaced and repaired, I believe.

16 Q. Do you know how long --

17 A. The roof, I think -- the roof, I think, is budgeted for.  
18 I'm not sure it's been bid or contracted for yet.

19 Q. Do you know how long the roof has had these leaking  
20 problems?

21 A. I would say I first heard about it about a year ago,  
22 probably.

23 Q. Let's talk about the leadership of Henley-Young. Who's  
24 in charge of the facility?

25 A. There is a director. Currently the interim director is

1 Mr. Crisler. Other members of what I would consider sort of a  
2 leadership team would be a quality assurance manager. That's  
3 Mr. Dorsey. The operations manager is Mr. Burnside. There is  
4 now a treatment coordinator, Ms. Warfield. There's a training  
5 director, sort of learning and development director. There's  
6 a program coordinator --

7 Q. Let's just talk about the direct- -- oh, go ahead.

8 A. Okay. Yep.

9 Q. So you said that there -- sorry, Mr. Moeser. Go ahead,  
10 please.

11 A. I was just going to say there's also, you know, mental  
12 health clinicians that I wouldn't necessarily consider -- I  
13 mean, I would consider them obviously critical members, not  
14 necessarily from a management point of view.

15 Q. So for the executive director position, you said that  
16 Mr. Crisler is the interim director. How long has he held  
17 that position?

18 A. I believe since January 5th.

19 Q. And who was the director before that?

20 A. Fernandez Frazier.

21 Q. And for how long was Mr. Frazier the director?

22 A. He was there, I think, from April of '21 until  
23 January 3rd of '22.

24 Q. And does the new interim director have experience with  
25 youth detention?

1 A. Not to my knowledge, no.

2 Q. Does he have experience with youth programming?

3 A. Not to my knowledge.

4 Q. What was Mr. Crisler's position prior to becoming the  
5 interim director of Henley-Young?

6 A. He was the interim sheriff appointed to follow after the  
7 passing of Sheriff Vance.

8 Q. And did he run for sheriff in the recent election toward  
9 the end of last year?

10 A. He did. He did.

11 Q. Since 2016 when you started in your role on the  
12 monitoring team, how many different directors have there been?

13 A. There have been four different people, five different --  
14 see if I can -- see if I can explain this as good as I can.

15 There have been five different person- -- excuse me, four  
16 different persons who have been director and essentially five  
17 occasions.

18 Mr. Frazier served as the director for a period prior to  
19 this most recent time, up until, I think, January of 2020.  
20 He'd been there about six months, I believe.

21 Mr. McDaniels, who now is Judge McDaniels, when I first  
22 came. Then Mr. Frazier. He was discharged, I think, in  
23 January of 2020. I believe there was a gap.

24 Mr. Harrington came in for a while after a gap, and there  
25 was another gap.

1           Then Mr. Frazier came back.

2           Then he left, and now Mr. Crisler.

3           And many of those interim times, the facility has been  
4 managed really by the operations manager and the quality  
5 assurance manager kind of as a team. There was a point where  
6 I think Judge McDaniels was designated as sort of an interim  
7 executive director even when he was judge, but I'm not sure  
8 how that -- whether he actually functioned that way or not.

9           Probably of the roughly five years since we've started,  
10 there's been, I would say, 12 to 14 months where there has not  
11 been a formal director on staff.

12 Q.    How would you characterize the leadership situation at  
13 Henley-Young over the past several years?

14 A.    It's really a -- sort of a roller coaster, sort of two  
15 steps forward, one step back or one step forward, two steps  
16 back. I'm not sure. Someone comes on board, may or may not  
17 be a good fit, but really rarely has been somebody who's had  
18 experience in youth confinement programming. Well, there  
19 really hasn't been anybody with that experience.

20           They stay for a while and for one reason or another  
21 leave, and I think the facility has been sort of, you know,  
22 patched together by some of -- the operations manager and the  
23 quality assurance manager who have been there awhile to try to  
24 keep things going forward.

25 Q.    You testified that Mr. Frazier had last served as

1 director as of January 3rd, 2022?

2 A. I believe that's correct, yes.

3 Q. And what were the circumstances of him ending that role?

4 A. He resigned. He became frustrated with questions, kind  
5 of a range of things that he detailed eventually in a  
6 resignation letter. Frustrated with the support from sort of  
7 above in terms of the County operation and difficulty in  
8 getting equipment and difficulty getting staff salaries the  
9 way they should be.

10 MS. VERA: Can we pull up the exhibit that's been  
11 marked PX-12, please.

12 BY MS. VERA:

13 Q. Do you recognize this document, Mr. Moeser?

14 A. I do.

15 Q. And can you identify it, please?

16 A. This is a letter that Mr. Frazier delivered to the County  
17 administrator on January 3rd.

18 MS. VERA: The United States moves to admit PX-12 into  
19 evidence.

20 THE COURT: Any objection from the defendant?

21 MR. MORISANI: No objection.

22 THE COURT: PX-12 will be received into evidence.

23 (Plaintiff's Exhibit 12 entered.)

24 BY MS. VERA:

25 Q. All right. And if we could look at the first two

1 paragraphs, please, of this letter.

2 A. Okay.

3 Q. Mr. Moeser, do you see in the second sentence there that  
4 Mr. Frazier writes that he's writing this letter "after  
5 examining the many obstacles faced since accepting the  
6 position"?

7 A. Yes.

8 Q. And do you see in the next paragraph the second and third  
9 lines where he says he has not -- "I have not had the  
10 necessary support as an administrator"?

11 A. Yes.

12 Q. Do you know what that means?

13 A. Well, I think -- I think at least the conversations I had  
14 with him directly were around support from sort of the --  
15 whether it was the board or the administrator, I'm not sure,  
16 but support, for example, in getting supplies or ordering  
17 things or kind of getting -- you know, if there were things he  
18 needed, it seemed like there were obstacles to getting them.

19 In particular, he was -- later the letter talks about the  
20 difficulty in dealing -- trying to get the staff salary up to  
21 a more reasonable level in particular, and he mentions, again,  
22 in the letter two things, that he was either excluded from  
23 some meetings and wasn't -- did not seem to -- he did not feel  
24 he had the authority to do what he needed to do.

25 My conversations with him were mostly about challenges he

1 seemed to face sort of dealing with the County administration  
2 and the Board in terms of getting things done that he thought  
3 needed to be.

4 Q. You said that he had issues with supplies and ordering  
5 things. Could you please elaborate?

6 A. You know, I don't -- I don't recall discussing any real  
7 specific things with him in that regard. I know at the time  
8 of the -- whether it's, for example, the roof issue, it taking  
9 a long time to get that bid and get that work done, and it's  
10 still not done. There was fairly prompt response to getting  
11 the control panel upgraded and changed. That was a positive,  
12 but I didn't talk really specifics with him very much about  
13 what he was trying to do and what his -- what the roadblocks  
14 were.

15 MS. VERA: Could we turn to page 2, please.

16 BY MS. VERA:

17 Q. Did Mr. Frazier refer in his letter to the budget for  
18 Henley-Young?

19 A. Yes. Yes.

20 Q. And did Mr. Frazier make a budget request for the current  
21 fiscal year?

22 A. Apparently he did, yes. I was not aware -- I was not  
23 aware of that at the time, but in his letter it's clear.

24 Q. And so where it says "The current" -- "The current fiscal  
25 budget is funded at the rate of 3. -- \$3,288,843.84," he says,

1 "The facility was requested to be funded at approximately  
2 4.1 million." He refers to this --

3 A. Yes.

4 Q. -- as "a drastic difference in funding."

5 Mr. Moeser, was the approved budget sufficient to operate  
6 Henley-Young?

7 A. You know, I did not go over with him details about that  
8 budget. I can -- certainly as it relates to staff salaries,  
9 those have been insufficient.

10 Q. Does Henley-Young --

11 A. Other kinds of --

12 Q. Go ahead.

13 A. I was going to say other kind of changes that I've  
14 proposed that I think he's supported, you know, weren't able  
15 to be done. This looks to me like --

16 Q. What other changes?

17 A. Well, I think some -- maybe some additional furniture,  
18 some of the things that I -- some things I think would improve  
19 behavior management at the facility.

20 Q. What furniture purchases are you -- what recommendations  
21 did you make about furniture purchases?

22 A. Well, I've continued to recommend, probably since 2017 to  
23 varying degrees of detail in my reports, that they get rid of  
24 those steel tables, buy detention -- you know, durable  
25 detention-grade chairs and tables that can be reconfigured or

1 placed around the unit in a different way, that can be brought  
2 together for groups or separated for individual purposes; a  
3 chair -- a decent chair that a youth could sit in to read a  
4 book or watch TV without sitting on the steel tables. So  
5 I've -- so it's been really trying to make that a more sort of  
6 normative environment to sort of calm down things in the units  
7 themselves.

8 Q. And when did you first make that recommendation about  
9 furniture and other items that might make -- improve the  
10 facility?

11 A. I don't -- I can't say for sure, but my guess is it was  
12 probably no later than May or June of 2017.

13 Q. Okay. And do those tables that you're referring to that  
14 you recommended in 2017, do those tables cost money to  
15 purchase?

16 A. Yes.

17 Q. More money than the approved budget would potentially  
18 allow for, given the other operational needs of the facility?

19 A. Apparently. And I very early on and probably in one of  
20 the periods when Mr. Burnside was working as -- while he was  
21 the operations manager, but he had -- he had developed  
22 essentially a purchase list. They had been trying to get it  
23 funded almost -- almost from the time I first talked with him  
24 about it. So he -- they had a notion of what they needed to  
25 buy. They just could never get the money to do it.

1 Q. You mentioned that Mr. Frazier's concerns also included  
2 staff salaries. Can we look at the second paragraph here  
3 that's in the portion that's blown up on the screen? Do you  
4 see where he writes of "several failed attempts to get  
5 authorization and support from the County administrator and  
6 Board of Supervisors" for higher salaries to improve staffing?

7 A. Yes.

8 Q. Is staffing an issue at Henley-Young?

9 A. Yes.

10 Q. And do you know what failed attempts he's referring to?

11 A. I know that during his first tenure as director, he had  
12 actually done the work of developing -- kind of gathering  
13 information, kind of a comparison study of what other counties  
14 in Mississippi, other counties -- I don't know -- I don't know  
15 the counties well enough to know the comparisons, but other  
16 counties that had youth facilities, what they were paying for  
17 the kind of youth care staff that sort of -- you know, the  
18 frontline staff. He had done developed a comparison study.  
19 So well over -- well over a couple years ago, he had developed  
20 that and I think presented it sort of up the chain. He  
21 obviously didn't get any response.

22 Q. You said he did not get any response to that study?

23 A. Correct.

24 Q. And what were the recommendations in this study?

25 A. Well, I don't know if he had a specific amount. Not too

1 long ago, the Mississippi Department of Corrections posted  
2 jobs with less requirements and, frankly, less work for around  
3 \$30,000 a year. So I think -- I don't think back in that  
4 original study he was necessarily proposing a rate that high.  
5 He was more or less just trying to show that Hinds County was  
6 below the -- well in the bottom third or quarter of counties,  
7 and then I think when the Department of Corrections made their  
8 salary higher, he then began proposing that as a salary basis.

9 Q. You talked about a salary for the Department of  
10 Corrections of \$31,000. What is the salary for staff that  
11 supervise youth at Henley-Young?

12 A. Right now the job is posted at about 27,000.

13 Q. Okay.

14 A. Which is a -- which is an increase, I should point out,  
15 one of the increases he got by limiting the other positions.

16 MS. VERA: So let's look at the last sentence -- or,  
17 sorry, the -- well, yes. Let's zoom back out again, please,  
18 on the exhibit and just zoom in only on that second paragraph.

19 BY MS. VERA:

20 Q. Mr. Moeser, do you see at the -- towards the end of the  
21 third line, Mr. Frazier writes, "I had to initiate a reduction  
22 of positions to fund a slight salary increase for certain  
23 staff members. Is that what you were just referring to?

24 A. Yes. It was my understanding that -- and this was in  
25 part parallel with increases that were being made for jail

1 officers at RDC who were getting increases that were not given  
2 to staff at Henley-Young. He felt he needed to do something  
3 for the staff at Henley-Young to, you know, show support for  
4 them as much as he could, so he came up with this idea of  
5 reducing some positions in the budget and using those dollars  
6 to increase the salary for the staff that were there, for the  
7 youth care professionals, the frontline staff only. There was  
8 not an increase for supervisors or other management.

9 Q. And do you know -- Mr. Frazier says that he initiated a  
10 reduction of positions to fund that. Can you please explain  
11 what that refers to?

12 A. So I believe in the budget, there were 49 -- originally  
13 49 youth care professional positions authorized. Those youth  
14 care professionals are the frontline staff supervising the  
15 youth daily. In order to fund an increase for other staff, he  
16 proposed -- or they agreed to reduce seven -- eliminate seven  
17 of those positions from the 49 in the budget, leaving them  
18 with 42 budgeted positions.

19 Q. And do you know of any plans to reinstate those seven  
20 positions?

21 A. No.

22 Q. What kind of a salary increase did the elimination of  
23 those seven positions facilitate?

24 A. I think it was -- I think -- I think it was about  
25 10 percent. I mean, it was a notable jump from where they

1 were a couple years ago. I don't know about the -- and I  
2 don't know. There's been discussion back and forth about this  
3 5 percent increase, and I don't know if that's taken effect or  
4 still being talked about. But it's -- it went from about --  
5 it was about a 10 to 15 percent increase from where they were.

6 Q. And did doing that lead to more stability in staffing or  
7 fewer vacancies at Henley-Young?

8 A. Not yet. It's --

9 Q. Did anyone --

10 A. That was done, I think, in September, maybe.

11 Q. Did anyone from Hinds County ask for the monitoring  
12 team's input regarding the elimination of seven positions?

13 MR. MORISANI: Objection. Leading.

14 THE COURT: Don't lead the witness.

15 BY MS. VERA:

16 Q. Mr. Moeser, when did you find out about the elimination  
17 of those seven positions?

18 A. After it happened. And I don't, frankly, recall whether  
19 it was a conversation or an e-mail. I think it was a phone  
20 conversation where we might have been talking about something  
21 else and he mentioned it.

22 Q. You mentioned and Mr. Frazier's letter mentions a  
23 5 percent across-the-board pay increase to staff. Did that  
24 pay increase apply to Henley-Young staff?

25 A. I don't know.

1 Q. Can you look at the last sentence of the paragraph in the  
2 exhibit? "However, an across-the-board 5 percent pay increase  
3 for staff has been proposed" --

4 A. Sure.

5 Q. -- "which has had an impact on the morale and focus of  
6 the staff employed at Henley-Young."

7 A. Sure.

8 Q. What does he mean where he says that that has had an  
9 effect on the morale and focus of his staff?

10 MR. MORISANI: Objection.

11 A. Well, I don't --

12 MR. MORISANI: Calls for speculation.

13 THE COURT: There's an objection, calls for  
14 speculation. Objection sustained.

15 BY MS. VERA:

16 Q. We can move on.

17 A. Okay.

18 Q. Since Mr. Frazier resigned, has the County approved any  
19 salary increase for Henley-Young staff?

20 A. Not that I'm aware of.

21 Q. And the 27,000 number that you testified to earlier, is  
22 that the current salary?

23 A. That's the current salary that's posted on their website.

24 Q. Do you believe Mr. Frazier had the County Board's support  
25 to operate Henley-Young safely?

1 A. No.

2 Q. Do you believe prior directors had that support?

3 A. No.

4 Q. Are the funding and staffing issues we've been speaking  
5 about likely to change with the new sheriff?

6 MR. MORISANI: Objection. Calls for speculation.

7 THE COURT: You can re-ask your question.

8 BY MS. VERA:

9 Q. Is it your understanding, Mr. Moeser, that the funding  
10 and staffing issues are -- continue to this day?

11 A. Yes.

12 Q. Let's talk a little more about the staffing and  
13 supervision at Henley-Young. So we talked about the -- you  
14 mentioned the -- you called them frontline staff, youth care  
15 professionals. Those are called YCPs by folks who work at  
16 Henley-Young?

17 A. Yes.

18 Q. Okay.

19 A. Yes, the acronym is YCP.

20 Q. And is it accurate that the YCPs supervise the youth at  
21 Henley-Young?

22 A. They have lots of functions, but one of the primary ones  
23 is certainly the direct supervision of youth in the facility.

24 Q. Do they supervise both the JCAs and the youth court  
25 population?

1 A. Yes.

2 Q. What are the duties of YCPs?

3 A. Well, they vary. I mean, there's -- or there -- there's  
4 a variety of things they would be responsible for over the  
5 course of a day. You mentioned the -- sort of the direct  
6 supervision of youth on the unit, so depending on what time of  
7 day and what's happening -- excuse me -- they would be  
8 responsible.

9 So, for example, in the morning, they get up, making sure  
10 they're getting up -- excuse me -- getting their rooms cleaned  
11 or whatever other sort of requirements they have. They  
12 serve -- make sure the youth get their meals. They supervise  
13 youth in the showers, clothing allotments and changes, sort of  
14 all the things that it takes to sort of run day to day.

15 They would then, you know, supervise youth, making sure  
16 youth get to whatever programmatic activity they're supposed  
17 to be involved in. So they may be escorting youth to the  
18 school or to the recreation area. They escort youth to the  
19 medical area or to the -- working with one of the therapists  
20 to the multipurpose room.

21 So they're all -- they're constantly with the youth  
22 providing direct supervision and care. They intervene in --  
23 try and intervene or, ideally, prevent incidents from  
24 occurring. They do room observations, wellness checks, kind  
25 of that whole variety of activities. They ideally would

1 support the youth support specialist or other program staff in  
2 conducting activities, social activities, self-development  
3 activities.

4 They would, you know, escort youth to visitation -- you  
5 know, kind of as visitation -- kind of all the day-to-day  
6 things that happen over the course of a day, up through meals,  
7 up through programs, up until it's time to go to bed at night.  
8 They do room checks. They do searches when youth move  
9 throughout the facility when needed. A whole variety of  
10 things.

11 Q. You mentioned responding to incidents and, ideally,  
12 preventing incidents. So does that mean that they're  
13 responsible for safety and supervision of youth?

14 A. Yes.

15 Q. Would you say that the YCPs have an important job?

16 A. Oh, absolutely. I mean, all of the positions at  
17 Henley-Young working together is what really makes the program  
18 function, but the YCPs are the ones that are in most contact  
19 with the kids day in and day out. They have the most --  
20 they're the most time with the youth. They have the most --  
21 probably the biggest impact on the youths' behavior and  
22 emotions. They have the biggest impact on how youth feel  
23 about being in the facility, whether they feel safe or not, so  
24 it's really an important role.

25 Q. Is it a difficult job?

1 A. Yes. Yes.

2 Q. What are the challenges?

3 A. I've done that.

4 Well, it depends on -- well, a lot of things. One is  
5 it's a full day. It's a busy day. It's -- you know, you're  
6 trying to -- especially if you've got a good program, you're  
7 responsible for making sure youth are getting to where they're  
8 supposed to be. You're making sure that -- I mean, there are  
9 all the little things throughout the day in terms of safety  
10 and security that you monitor, have to be aware of. You have  
11 to work -- you know, interact with the youth in a positive way  
12 so that hopefully they don't get angry and disruptive. You  
13 have to be -- you have to be attentive all the time to the  
14 mood and things you might hear between youth, so really play  
15 an absolutely significant role.

16 The best safety really within the facility other than  
17 sort of the physical plant things, which we're not talking  
18 about, but other the physical plant things, the greatest  
19 contributor to safety within the facility is the relationship  
20 that they have in supervising youth and how the youth view  
21 them and how youth respond to them.

22 Q. How would you describe the work environment, the YCP's  
23 environment?

24 A. Well, I would say a couple things. The way things are  
25 now, given the staff shortage, it's very -- extremely

1 challenging. It's hard to do all the things you're supposed  
2 to do and do them well. The physical plant itself is not  
3 particularly comfortable. Again, oftentimes that's -- the  
4 staff, the only place they can sit is at one of the steel  
5 tables. Acoustics within the units themselves are terrible.  
6 It echoes. It echoes so much, it's hard for me to hear,  
7 anyway, when I'm there, not to mention the sort of challenges  
8 the kids present. So it's a whole other area. But the  
9 physical plant, there's no natural light within the units.  
10 It's not a particularly great place to be for eight-hour  
11 shifts. So it's a tough -- it's a tough environment.

12 Q. Is there an educational requirement for YCPs?

13 A. I believe it's a high school degree. I don't know  
14 offhand if a GED equivalent meets that or not. I think it  
15 does, but I'm not 100 percent sure.

16 Q. When someone starts as a YCP, do they typically have  
17 experience with youth custody?

18 A. No, I don't think so. There's really -- I'm not sure  
19 there's any other places like that around there that they're  
20 drawing from. My guess is certainly that if they're finding  
21 somebody with experience, they've been working at a higher pay  
22 somewhere else, but I don't think there's many people like  
23 that.

24 Q. What are the types of jobs and employers that  
25 Henley-Young has to compete with for potential applicants?

1 A. You know, I don't know the job market there very well,  
2 but it certainly has everything from fast-food places to, you  
3 know, warehouse-type jobs. You know, I don't -- I don't have  
4 a good handle on necessarily all the different things that are  
5 there. I know in the past they've talked about some  
6 warehouse-type jobs coming in they also have to compete with.  
7 Now they have to compete with jail officers and they have to  
8 compete with the Mississippi Department of Corrections.

9 Q. You just said "they've talked about warehouse jobs." Who  
10 is "they"?

11 A. Usually I think it's probably been either the director  
12 or -- and/or Mr. Burnside or Mr. Frazier or Mr. Dorsey. It  
13 would be sort of a casual conversation about staffing levels  
14 and the challenges they're having when they try to hire  
15 people.

16 Q. Does the YCP position require training?

17 A. Yes.

18 Q. Does that training go to the YCP's understanding of  
19 rules, policies, and procedures?

20 MR. MORISANI: Objection. Leading.

21 THE COURT: Objection overruled.

22 A. Well, when it's -- yeah. So the ideal would be that they  
23 would have at least 40 hours of fairly formal training that  
24 would include a review of policies and procedures for the  
25 facility. That's, I think, set for about eight hours of a

1 40-hour formal process. That's -- you know, that's not --  
2 it's okay to sort of let staff know where policies are, but  
3 it's certainly not enough to cover all the policies and  
4 procedures in any depth.

5 They do a -- what's called Crisis Prevention Institute  
6 training. I think that's a 16-hour program within that  
7 40 hours. That's both a CPI -- CPI is a process of working  
8 with youth that includes both sort of deescalation skills as  
9 well as some physical restraint skills.

10 They usually do some training on report writing a little  
11 bit. I'm trying to think of other elements of the 40 hours.  
12 But some basic training like that for the 40 hours and then  
13 ideally at least 40 hours of on-the-job training with  
14 mentoring from someone else would be at least -- that would be  
15 the minimum that somebody should get.

16 Q. The minimum for what?

17 A. From the time someone is hired to before they're actually  
18 placed supervising youth on a unit, and ideally I would want  
19 them to at least spend a couple more weeks not as the sole  
20 staff member on a unit.

21 Q. And are YCPs at Henley-Young receiving that minimum level  
22 of training before they do those things?

23 MR. MORISANI: Objection.

24 A. I think not --

25 THE COURT: Hold on. There's an objection on the

1 floor. Mr. Moeser, hold on.

2 MR. MORISANI: Leading.

3 THE COURT: Don't lead the witness.

4 BY MS. VERA:

5 Q. Mr. Moeser, you just testified to a number of criteria  
6 that you consider to be the minimum before YCPs supervise  
7 youth on the unit; correct?

8 A. Yes.

9 Q. Do YCPs receive the minimum training?

10 MR. MORISANI: Objection. Leading.

11 THE COURT: Objection overruled.

12 A. Not always.

13 MS. VERA: Can we pull up PX-1, please, at page 37.

14 And can we zoom in to paragraph 82?

15 BY MS. VERA:

16 Q. Mr. Moeser, this is the consent decree in this case. Is  
17 this the paragraph that you evaluate as to staff training?

18 A. Yes.

19 Q. And the consent decree says "Provides that staff members  
20 who are assigned to supervise youth are to receive training on  
21 youth-specific policies and procedures as well as on  
22 age-appropriate supervision and treatment strategies." Then  
23 it reads that these staff are to receive "specialized  
24 training," and that is to include training on the "supervision  
25 and treatment of youth, child and adolescent development,

1 behavioral management, crisis intervention, conflict  
2 management, child abuse, juvenile rights, the juvenile justice  
3 system, youth suicide prevention and mental health, behavioral  
4 observation and reporting, gang intervention, and  
5 deescalation"; correct?

6 A. Yes.

7 Q. And are the defendants in compliance with this provision  
8 of the settlement agreement?

9 A. Not to my -- no. I tend to rate it as partial  
10 compliance.

11 Q. And do you believe that these training topics are  
12 necessary to ensure youth safety and programming needs are  
13 met?

14 A. Yes. I should add, also, just for the record, I guess,  
15 that eventually staff are required to go through a 120-hour  
16 program that's provided by some State definition of detention  
17 officer of some kind. Some of -- a couple of these things are  
18 included I think in that (AUDIO GAP).

19 Q. In your role on the monitoring team, have you made  
20 recommendations about training and professional development?

21 A. I've made recommendations about professional development  
22 and some online training options or ideas.

23 Q. We've talked about staffing issues a little bit. Do  
24 staff vacancies have an impact on the ability to train staff?

25 A. Yes. And there's a number of ways that that's happening.

1 I believe one is that -- one is staff come in, get some  
2 initial training, that very basic training that I kind of  
3 alluded to. They may not stay long enough to get any more  
4 advanced training.

5 There are some -- you know, opportunities for additional  
6 training that staff can't take advantage of because they can't  
7 be freed up from a shift of work to go to the training. And  
8 frequently when asked about training or other things going on,  
9 it would be mentioned that partly because of the -- well,  
10 largely because of the low pay, many of the YCP staff had  
11 second jobs or in many -- in some cases this was their second  
12 job.

13 So it's very difficult to -- there's not enough YCP staff  
14 to schedule training in a way that gets them free from a  
15 shift, it's difficult to do it before and after a shift, and  
16 the turnover is high. So they really never get beyond these  
17 sort of basic elements of training.

18 Q. Mr. Moeser, you testified that there are times when YCPs  
19 supervise youth before they've received the full complement of  
20 required trainings. I want to ask you about an incident that  
21 occurred on January 10th.

22 MS. VERA: Can we please pull up PX-73?

23 BY MS. VERA:

24 Q. Mr. Moeser, are you familiar with this incident? If you  
25 need to look at other pages of it, that's fine.

1 A. That's good. I recall it.

2 Q. Okay. Are you familiar with this incident?

3 A. Yes.

4 Q. Can you briefly describe what happened in this incident?

5 A. Yeah. This is an incident where, I think, two -- I think  
6 there were only two girls, or at least there were two girls --  
7 it may have been another girl or two on the unit, but I think  
8 there were only two girls on the facility who were in, I  
9 think, the visitation area making their way back to the living  
10 unit, to the pod.

11 As they go back, they are, you know, loud and boisterous  
12 and apparently trying to yell or make contact through doors of  
13 the boys' unit and the staff member is, you know, trying to  
14 get them to get back to the unit where they're supposed to be  
15 and kind of things escalate from there. The youth threaten  
16 the staff member, begin to physically approach her in a  
17 threatening way. She removes her belt and starts swinging it  
18 around.

19 Apparently one of the youth said she kind of slammed it  
20 on the table, but it became sort of escalated and verbal to  
21 the point where one of the youth was struck with the belt and  
22 also then engaged in a physical wrestling match with the staff  
23 member. The girl was taken for medical care and had some cuts  
24 and bleeding and injury to her lip and, I think, a cut on  
25 her -- the side of her face, I think. So it was a --

1 Q. Mr. Moeser -- go ahead, please.

2 A. Well, it just kind of escalated to a physical  
3 confrontation and ultimately the staff member used the belt as  
4 a weapon, essentially.

5 Q. So on the first page of this incident report, do you see  
6 at number 7 of this checklist it says "Was force used," and  
7 the check box is checked for "Yes."

8 A. Yes.

9 Q. And it says "Pinned her to the floor"?

10 A. I see that, yes.

11 Q. What is that line typically for that was filled in here?

12 A. That's meant for the -- this form itself is completed by  
13 the supervisor in reviewing the incident report that the staff  
14 member writes. So this is meant to -- the form itself is  
15 meant as kind of a quality assurance check of what's in the  
16 report, does it include the basic elements that are consistent  
17 with best -- with expected practice so you see things like  
18 "Was verbal de-escalation used," and the "Yes" box is checked.  
19 Well, I'm not sure that's true, but, you know, this gets  
20 checked like that.

21 This particular line item usually is meant to reflect  
22 what level of force, if some kind of restraint was used.  
23 Through the CPI training, there are particular kinds of  
24 restraints that are taught. So typically you'll see an  
25 incident report that talks about maybe a type of hold or a

1 type of restraint. That's what's included here, or if there  
2 was any other force used of some kind.

3 Q. And just to clarify, you were just referring to CPI  
4 training, which you had testified about a bit earlier. Is  
5 "pinned her to the floor" a use of force that would be covered  
6 in a training?

7 A. No. And any -- you know, taking kids to the floor is  
8 often sometimes referred to as "taking them to the floor" in  
9 facilities. It's risky and dangerous and can be -- result in  
10 injury. Certainly any kind of situation in which a youth is,  
11 you know, thrown on the floor and a staff member puts weight  
12 on them could restrict their breathing, *et cetera*. So  
13 anything along the line of "to the floor" is not an  
14 appropriate technique.

15 MS. VERA: Could we please look at the lower half of  
16 this page?

17 BY MS. VERA:

18 Q. Mr. Moeser, what is this "Comments" portion and signature  
19 line on the form for?

20 A. It's meant, again, to -- it's meant for an opportunity  
21 for the supervisor to make any additional comments about the  
22 incident or the incident report itself. They may, you know,  
23 gather some additional information in talking with the staff  
24 member that could become kind of a supplement. It may be a  
25 comment about whether what the staff did was proper or not.

1 It may include -- you know, maybe they interview another --  
2 oftentimes in situations like this, there's more than one  
3 staff member who ultimately gets involved. It may include  
4 reference to any conversations with that person. But this  
5 section is almost -- I rarely see anything written in this  
6 section by any supervisor.

7 Q. Do you review these supervisor checklists and sign off on  
8 other incident reports?

9 A. Yes.

10 Q. And, Mr. Moeser, you had just testified that on Number 3  
11 on this checklist, the question about verbal de-escalation,  
12 you said something like you're not sure it's true. Can you  
13 elaborate, please?

14 A. Well, especially in this report, I don't recall anything  
15 in particular that referenced that at all, and, you know, it  
16 really begins with sort of the youth were making threats and I  
17 told them to get to their unit. That's -- and there's no  
18 reference to any kind of -- as I recall -- and I could reread  
19 the incident, but I don't recall anything in particular that  
20 would describe any real meaningful or verbal de-escalation  
21 attempt, and that's fairly common as well. These often -- you  
22 know, often verbal de-escalation from the staff -- what's in  
23 the incident report will be the staff member saying, "Well, I  
24 told them to go to a different part of the room," and they --  
25 it's more of a command than it is any attempt at verbal

1 de-escalation. There's rarely any reference to -- rarely, if  
2 ever, frankly, any reference to taking the youth aside,  
3 talking with -- trying to get them to calm down. There are  
4 occasions like that, but relatively rare, so it seems like  
5 this almost gets checked regardless of what's in the report.

6 Q. And who checks all of these boxes, just so that we're  
7 clear?

8 A. The supervisor for each -- each shift has one or more  
9 supervisors on duty at the time, so it would be one of those  
10 supervisors.

11 Q. And when the supervisors fill out this form, does that  
12 constitute a meaningful review?

13 A. I don't think so. I mean, I like the form. I think it's  
14 intended to be used, but I don't think most supervisors have  
15 the time or -- the quality of that review is, I think, very  
16 limited.

17 Q. Why do they not have the time to do a better quality  
18 review?

19 A. Well, the staff shortage creates issues. So oftentimes  
20 shift supervisors are actually performing the duties of a YCP  
21 to cover a shift because there's not enough YCPs to cover a  
22 shift. So this becomes sort of a, you know, thing I got to  
23 do, get it off my list so I can go back to doing whatever I  
24 was doing, which may mean supervising -- which may mean  
25 actually supervising a unit.

1       Now, I can't speak to this particular incident, what was  
2 going on, whether that was the case or not, but given --  
3 looking at shift reports and in discussions in this last  
4 interview series, supervisors would essentially say they don't  
5 have the time to be a supervisor, they're busy covering  
6 shifts.

7 Q.    Mr. Moeser, is a limited review like this sufficient?

8 A.    Well, I would -- I would say there's -- I would say this  
9 is the first step, if it's done well, of a review in the sense  
10 of the supervisor needs to play that role of reinforcing and  
11 teaching and training the YCPs. They may get some initial  
12 training on, okay, if you -- if an incident occurs, you have  
13 to fill out a report.

14       The best training comes from what's -- sort of what's  
15 reinforced over time. So as a process, this is a -- could be  
16 a good tool if it's used properly as the first step.

17       Subsequently, typically the operations manager sees these, and  
18 I think now the director gets all of these as well. That's  
19 another sort of review where they can sort of push back and  
20 sort of hopefully gradually improve the quality of the  
21 incident reports themselves and ultimately the quality of work  
22 the staff used, but as sort of a teaching tool, something like  
23 this could be useful. Staff do what gets reinforced, and if  
24 nobody's asking them these questions, they just -- they won't  
25 bother.

1 MS. VERA: Your Honor, the United States moves to admit  
2 PX-73 into evidence.

3 THE COURT: Any objection?

4 MR. MORISANI: No objection.

5 THE COURT: PX-73 will be received into evidence.

6 (Plaintiff's Exhibit 73 entered.)

7 MS. VERA: Can we pull up PX-75, please?

8 BY MS. VERA:

9 Q. Mr. Moeser, do you recognize this document?

10 A. Yes.

11 Q. Please identify this document.

12 A. This is the start of an e-mail chain between myself and  
13 Mr. Crisler and kind of in follow-up to the incident we just  
14 discussed, as I recall, and although I don't do it very often,  
15 if I see an incident that causes concern, especially if it's  
16 an issue of, you know, a staff member that may have acted  
17 inappropriately to the point where I'd be concerned about  
18 safety, I would send an e-mail or call. This one I sent an  
19 e-mail. So this is his response to the questions I asked him.

20 MS. VERA: The United States moves to admit PX-75.

21 THE COURT: Any objection?

22 MR. MORISANI: No objection.

23 THE COURT: PX-75 will be received into evidence.

24 (Plaintiff 's Exhibit 75 entered.)

25 BY MS. VERA:

1 Q. Mr. Moeser, how did Mr. Crisler, who is the current  
2 interim director of Henley-Young, explain the officer's  
3 conduct in response to this incident?

4 A. You know, his basic response is that she was new, had not  
5 gotten any formal training, that, you know, she did this to  
6 protect herself, and that she would be sent for training  
7 coming up, but that she was not adequately trained and not  
8 able to do what she should have done.

9 Q. And so are you referring to paragraph numbered 1 where  
10 Mr. Crisler writes that that YCP "has yet to receive any  
11 formal training"?

12 A. Correct.

13 Q. Was this YCP supervising the girls' unit on her own when  
14 the incident occurred?

15 A. I believe so, yes.

16 Q. And how much experience did she have on the job? We can  
17 look back at --

18 A. Well, he said a little over two -- yeah, a little over  
19 two weeks, really, so pretty limited.

20 Q. Should this YCP have been supervising youth on her own?

21 A. No.

22 Q. Why was the YCP supervising youth on her own?

23 A. You know, I didn't ask that specifically, but I can only  
24 assume that -- that they had --

25 MR. MORISANI: Objection.

1                   THE COURT: Hold on. Hold on, Mr. Moeser. There's an  
2 objection. Hold on, Mr. Moeser. Hold on. Hold on.

3                   The objection?

4                   MR. MORISANI: Just to speculation. He said he'd have  
5 to assume.

6                   THE COURT: What was your question again?

7                   MS. VERA: I asked why this YCP was supervising youth  
8 on her own.

9                   THE COURT: And what's your response to that,  
10 Mr. Moeser?

11                  THE WITNESS: Well, knowing that they have a staff  
12 shortage and that there were only two girls on the unit, my  
13 assumption, right or wrong, was that they --

14                  THE COURT: No. Objection sustained. You cannot make  
15 an assumption. You cannot assume it, but based on your  
16 reviews or conversations with -- I'll allow you to ask your  
17 questions. Excuse me. Ask your question again.

18 BY MS. VERA:

19 Q. Okay. Mr. Moeser, why was the YCP supervising youth on  
20 her own? If you don't know, you can say you don't know.

21 A. I don't know.

22 Q. In paragraph number two of Mr. Crisler's e-mail, do you  
23 see where he writes about YCP Cooper's calls for assistance?

24 A. Yes.

25 Q. What circumstances would lead to a call for assistance?

1 A. Anytime there's, oh, clearly physical -- physical  
2 restraints being needed or physical intervention that's being  
3 needed, staff will do what they call a code yellow, which is  
4 meant to bring other staff to that area.

5 MS. VERA: Can we please return to PX-73, page 2. If  
6 we can zoom in on the narrative portion. Yeah. Thank you.

7 BY MS. VERA:

8 Q. Mr. Moeser, this is the same incident report we were  
9 discussing previously.

10 A. Yes.

11 Q. This is page 2 of that document. Who is the person  
12 reporting on this page?

13 A. This is the Youth Care Professional Cooper.

14 Q. And is that the YCP who swung her belt and hit the girl  
15 with her belt?

16 A. Yes.

17 Q. So below in the narrative section, where it says "I,  
18 Youth Care Professional Brenda Cooper, was returning back to  
19 JFK from giving phone calls to residents," and the names of  
20 the residents, do you see that?

21 A. Yes.

22 Q. Okay. And then towards the end after Ms. Cooper has  
23 described her account of the incident, do you see where it  
24 says, "I grabbed her and forced her to the floor. I held her  
25 so she couldn't hit me until someone came. YCP Jamal Pierce

1 and SYCP Darius Ellis came and told me to let her go. We got  
2 her"?

3 A. Yes.

4 Q. Okay. Did Ms. Cooper continue to supervise youth  
5 following this incident?

6 A. In looking at -- well, she was, I believe, given a  
7 several-day suspension, and in looking at shift reports in the  
8 last couple weeks, she has been on them, I think, in almost  
9 all cases, if not all cases, with another staff member.

10 Q. Okay. But she did continue to supervise youth following  
11 the incident?

12 A. Yes.

13 Q. I'd like to move on to other staffing issues.

14 MS. VERA: Your Honor, I'm happy to continue, but this  
15 is a point where I was going to stop discussing those  
16 exhibits.

17 THE COURT: Okay. This will be an appropriate time for  
18 our afternoon break. And let's just talk about -- it sounds  
19 like you might have a ways to go.

20 MS. VERA: Yes, Your Honor.

21 THE COURT: It looks like we won't get to his  
22 cross-examination this afternoon. To be fair to you-all, I  
23 don't want to rush anybody. So take whatever time you need,  
24 and we will take up a couple of other matters before we close  
25 today related to this case, but nothing about scheduling

1 anything. There's a motion and stuff that the parties have  
2 responded to, for example, and there's a couple other things I  
3 just want to say.

4 It's 2:55. Let's come back at 3:15 for our afternoon  
5 break, and we're in recess.

6 (A brief recess was taken.)

7 THE COURT: You may be seated.

8 All right. I failed to do one thing that I always do  
9 throughout the course of my trials, in every trial and  
10 everything that I have, and I learned this from a wise old  
11 man -- well, not an old man then. He was not old.

12 You can take this case out of my hands or the hands of  
13 the jury at any time you want. There's no harm in getting  
14 your case resolved at every stage of the proceeding. I  
15 usually say that at any portion of the case, whether it's  
16 after any witness, after any thing, after any ruling. The  
17 case is in the parties' hands at all times, and you can always  
18 seek to get it resolved. That's all. I learned that from  
19 somebody long ago.

20 So is the United States ready to continue?

21 MS. VERA: Yes, Your Honor.

22 THE COURT: All right.

23 BY MS. VERA:

24 Q. Mr. Moeser, earlier on we were talking about the director  
25 of Henley-Young and that currently the interim director is

1 Mr. Crisler. Are there any plans for a permanent director?

2 A. To my knowledge, the job is posted on the County website.

3 Whether they're doing any additional recruitment, I don't  
4 know, but they are posting and presumably going to accept  
5 additional applications.

6 Q. Okay. I'd like to move on to discuss staffing issues in  
7 a little more detail. We were discussing that earlier.

8 MS. VERA: Can we please look at Plaintiff's Exhibit  
9 PX-28.

10 BY MS. VERA:

11 Q. Mr. Moeser, have you reviewed this document?

12 A. Yes.

13 Q. And what is it?

14 A. This looks like their basic organizational chart showing  
15 what personnel are on the staff and kind of what their  
16 positions are.

17 Q. And is this the organizational chart that was provided as  
18 part of the documents obtained for the October 2021 site  
19 visit?

20 A. I believe so, yes.

21 MS. VERA: The United States moves to admit PX-28 into  
22 evidence.

23 THE COURT: Any objection?

24 MR. MORISANI: No objection, Your Honor.

25 THE COURT: P-28 will be received into evidence.

1 (Plaintiff's Exhibit 28 entered.)

2 MS. VERA: Is it possible to zoom in on the bottom  
3 half? Thank you.

4 | BY MS. VERA:

5 Q. Mr. Moeser, does this part of the chart show the YCP  
6 positions and then above them it's the senior youth care  
7 professionals and above that the youth care supervisor  
8 positions?

9 A. Correct.

10 Q. So the boxes with either somebody's name or the word  
11 "vacant," are those YCP positions?

12 A. Correct.

13 Q. How many YCP positions or identified posts for YCPs are  
14 there for Henley-Young?

15 A. There are 42 on this chart.

16 Q. And of those 42, how many were vacant as of the date of  
17 this chart?

18 A. I think I counted this as -- I think 17 if my counting  
19 was correct. Sixteen.

20 Q. I'm counting 16 as well. Okay.

21 A. Yeah, 16.

22 Q. And have current staffing numbers changed since October?

23 A. Yes. It's kind of a moving target. I think an

24 additional chart I got more recently, I think there were 20  
25 vacancies and then the more recent one was back to, like, 18.

1 So it's kind of a rolling target as they bring people on and  
2 people leave.

3 Q. On this chart how many YCP positions are there per shift?

4 A. Well, the first shift has 18. The second shift and third  
5 shift have 12 assigned to those shifts. People are hired for  
6 those shifts in terms of (AUDIO GAP).

7 Q. And what are the -- do you know the hours of the three  
8 different shifts?

9 A. I think they work on, like, 7:00 to 3:00 and 3:00 to  
10 11:00 and 11:00 to 7:00 hours.

11 Q. How many YCPs typically cover a shift?

12 Sorry. I failed to ask the question I was going to ask  
13 you before that.

14 Do you review shift reports? You talked about reviewing  
15 shift reports for the facility?

16 A. I do.

17 Q. And do those -- do those tell you how many YCPs are on a  
18 given shift?

19 A. How many YCPs and supervisors are on a shift, yes.

20 Q. And how many YCPs and supervisors are typically covering  
21 a shift?

22 A. Oh, I would say the day shift, the 7:00-to-3:00 shift,  
23 has typically seven to nine. The second shift often has six,  
24 maybe seven, but more often six, sometimes five. The night  
25 shift is five or six, more often five.

1 Q. And how many YCPs on a given shift are covering each  
2 unit, each housing unit or pod?

3 A. Of course, it depends on how many they have on that  
4 particular shift. Sometimes there are two. More often there  
5 is one person. There may be a supervisor covering one of the  
6 units. They also have to cover intake, the control center, so  
7 they're spread across all those areas.

8 Q. Looking back at the chart, there are seven blank  
9 rectangles along the bottom. What are those?

10 A. Those are -- represent the seven positions that were  
11 eliminated in the budget during the allotment so that other  
12 staff could get a salary increase.

13 Q. Are those the same seven positions we were discussing  
14 earlier that are referenced in Mr. Frazier's resignation  
15 letter?

16 A. Yes.

17 Q. Is there a standard ratio needed to operate a juvenile  
18 justice facility safely?

19 A. Well, so the number of staff -- well, I guess let me  
20 think the best way to answer that.

21 Well, let me start with the number of staff depends  
22 clearly on the number of youth. It also depends on what the  
23 configuration of the facility is and how easy it is to monitor  
24 youth, how many different areas have to be staffed, whether or  
25 not there is a control center that's critical to operations.

1 There may be other functions.

2 For example, in this case they often escort youth to  
3 youth court. Depends on how many youth have to go to medical  
4 at any given point in time. So it's not a simple, you know,  
5 for, in this case, 32 kids, you need X number of staff.

6 In terms of direct supervision, there is a standard PREA  
7 expectation, the Prison Rape Elimination Act, of a minimum of  
8 one staff member serving every eight youth or greater.

9 Operationally, my experience is that that's the absolute  
10 minimum and not just --

11 THE COURT: Hold on. Hold on, Mr. Moeser. It seemed  
12 like there's some unreadiness. Can you understand him?

13 MR. SHELSON: I'm sorry, Your Honor. We heard "one"  
14 and then it sort of cut out, so we just didn't hear his  
15 answer. That's all.

16 MS. VERA: Thank you. I was going to clarify the same  
17 thing.

18 BY MS. VERA:

19 Q. Mr. Moeser, what's the ratio required under PREA?

20 A. A minimum of one staff member for every eight direct --  
21 in terms of directly supervising youth.

22 THE COURT: Is that -- did you say one for every eight?

23 THE WITNESS: Yes.

24 THE COURT: Okay. Thank you.

25 BY MS. VERA:

1 Q. Mr. Moeser, are there currently enough YCPs on staff at  
2 Henley-Young?

3 A. No.

4 Q. Have you made recommendations about YCP staffing,  
5 vacancies, retention, or pay?

6 A. Yes.

7 Q. When did you first make such recommendations?

8 A. I think probably late in 2019. It had been something  
9 that I sort of monitored along the way in terms of how many  
10 vacancies there were. There were always some vacancies, but  
11 oftentimes Mr. Burnside, because of the frequency with which  
12 he was actually running the show, more or less, would -- we  
13 would talk about that and he would talk about pay being a  
14 critical factor.

15 So we would talk about the number of vacancies, what the  
16 trends were, what steps were they trying to take to recruit  
17 people, things like that. So I began recommending more  
18 directly two things:

19 One is an increase in pay or referencing that it really  
20 was -- needed to be upgraded somehow. More recently, once the  
21 Department of Corrections set their number, it was clear that  
22 had to be at least the benchmark.

23 And then I also recommended some sort of, you know, pay  
24 progression or advancement system in which staff who stayed  
25 could gradually see an increase in their pay based on usually

1 some sense of longevity. You could tie in some merit increase  
2 if you wanted, but basically some pay progression system or a  
3 step system so that, you know, the longer you were there, you  
4 would get -- you would get more money.

5 Q. And is there any such pay progression system or step  
6 system in place at Henley-Young for YCPs?

7 A. No.

8 Q. Do staff vacancy levels affect the ability to ensure that  
9 staff supervising youth are adequately trained?

10 A. Yes. I've talked about the difficulty in getting them  
11 off shift for training or to schedule training, not having  
12 enough staff to cover the units the way they should and trying  
13 to pull them off. The -- many of them have second jobs and  
14 can't be trained. The lack of step -- step system or the lack  
15 of -- sort of where you're not retaining people, you're really  
16 spending most of your time just recycling the basic training  
17 versus trying to get to any advanced training.

18 Q. Do staffing levels have an impact on defendants' ability  
19 to provide adequate supervision of the youth?

20 A. Yes.

21 Q. How so?

22 A. Well, the -- you know, I look at -- I guess the best way  
23 for me to look at it, I think of safety and security within a  
24 facility as kind of three -- for lack of a better term, a  
25 three-legged stool that includes the physical, environment,

1 the physical plant, safety features, the doors, you know,  
2 those kinds of -- the design itself.

3 The programming pieces that keep youth busy contribute a  
4 lot towards safety and security.

5 And then ultimately the staffing level in terms of staff  
6 being able both to adequately observe youth constantly, be  
7 able to prevent incidents by intervening or, you know, taking  
8 a youth aside when we see them getting agitated or basically  
9 being able to prevent incidents from blowing up into fights or  
10 more serious incidents.

11 And then ultimately if something does occur, having  
12 enough staff available to intervene safely so you don't end up  
13 having to implement some form of either a restraint or any  
14 kind of physical contact that could result in injury.

15 You also want to be able to have staff available to -- if  
16 you're dealing with a particularly disruptive youth or maybe a  
17 fight between a couple kids, somebody who could kind of step  
18 in and monitor the other youth and sort of keep them from  
19 becoming engaged in the incident itself.

20 So there's a lot of situations that can be prevented by  
21 good staffing; and even after incidents occur, they can  
22 prevent them from becoming more serious and escalating  
23 further.

24 Q. Do staffing levels have an impact on defendants' -- on  
25 staff's ability to assist with programming goals, including

1 mental health and behavioral programming?

2 MR. MORISANI: Objection.

3 A. I think --

4 THE COURT: Hold on. We've got an objection.

5 MR. MORISANI: Leading.

6 THE COURT: What's the basis of your objection?

7 MR. MORISANI: Leading.

8 THE COURT: Objection's going to be overruled.

9 A. Can you just ask that again?

10 BY MS. VERA:

11 Q. Do staffing levels have an impact on the ability of the  
12 YCPs to assist with mental health and behavioral programming  
13 goals?

14 A. Yes. Let me start with the behavioral management and  
15 other kinds of programming that's involved; keeping youth  
16 active in constructive activities; being able to assist, for  
17 example, the youth support specialist in going along and being  
18 able to help facilitate a group or at last be in the group to  
19 provide some backup if situations occur; being able to get  
20 youth -- for example, we talked about the portable classrooms  
21 that had been purchased and installed, but there's not  
22 sufficient staff to take them out to that area for some of the  
23 programming. So those areas would be much more conducive and  
24 more appropriate for a small-group program that they currently  
25 have available either in the classrooms or the multipurpose

1 space, so that in terms of programming, that's significant.

2 The behavior management aspect is -- I would say is more  
3 complex in terms of staff being able to interact with youth  
4 promptly and efficiently. When they see things either in  
5 terms of incentivizing behavior or redirecting the youth, it  
6 needs to be done promptly and, again, keeping things from  
7 being, from escalating as kids manage to go from one level of  
8 emotion to another in an instant. There have to be staff  
9 available to watch that, monitor that, prevent that from  
10 blowing up. So there's lots of ways they contribute to sort  
11 of behavior management components as well.

12 Mental health, certainly as it relates to providing a  
13 safe environment, we know most of these youth have had  
14 significant experiences with trauma, witnessing violence, all  
15 kinds of other -- transiency, all kinds of other trauma in  
16 their life, and the ability of staff to provide a safe, calm  
17 environment is critical to them not sort of experiencing that  
18 in the facility.

19 Q. Are the defendants in compliance with the provisions of  
20 the settlement agreement requiring mental health and  
21 behavioral programming, specifically paragraphs 78 and 84?

22 A. Partially.

23 Q. Do staff vacancy levels affect the ability to facilitate  
24 adequate school?

25 A. Yes. For a considerable length of time now, I've -- it

1 was true in the -- even the last time I was physically there  
2 in February of 2020, there have been periods of time,  
3 significant lengths of time now, when youth have -- they have  
4 not been able to take all the youth to be at school for the  
5 day. So they've implemented what they call an A/B system,  
6 which one unit is in school and the other unit and group of  
7 youth are on their individual pod supposedly working on work  
8 packets the teachers provide.

9 So out of -- so they're really only going to school half  
10 the days they should be, and the main reason for that is the  
11 limited number of staff available to -- well, there's two  
12 reasons. One is the limited number of staff available to go  
13 and be in the school and still be able to provide supervision  
14 for youth who are otherwise not in school for illness or other  
15 reasons, maybe court, maybe -- you know, maybe therapy,  
16 whatever, might have to see the nurse, things like that; and  
17 the school area itself, it's very compact and not very  
18 conducive to a safe environment for school.

19 Q. Are the defendants in compliance with paragraph 79 of the  
20 agreement, which requires that they ensure that youth receive  
21 adequate, free, appropriate education including, special  
22 education?

23 A. No.

24 Q. And about how --

25 A. Well, there --

1 Q. Go ahead.

2 A. Well, there is a -- there is a staff member who is their  
3 special ed teacher, who does -- they do get IEPs for kids with  
4 individualized education plans for youth. So they get those.  
5 She does try and provide extra support for those youth. They  
6 don't have another special ed teacher currently, so that  
7 limits that as well, along with the fact that they're only in  
8 class half the time they should be.

9 Q. And when you say "they're only in class half the time  
10 they should be," are you talking about JCAs?

11 A. Yes.

12 Q. And are you talking about all JCAs?

13 A. Yes.

14 Q. Okay. Paragraph 83 of the agreement refers to the use of  
15 segregation. It prohibits the use of segregation as a  
16 disciplinary sanction and provides for a number of --  
17 subsections (a) through (i) provide for a number of  
18 documentation requirements and other requirements related to  
19 the use of segregation.

20 Are the defendants in compliance with paragraph 83?

21 A. No.

22 Q. Are they adequately documenting segregation as required  
23 by the agreement?

24 A. I don't believe so, no. They have significantly reduced  
25 the use of what they would call due process confinement in

1 which following an incident a youth would be confined to their  
2 room for up to 24 hours with the opportunity, they say, to get  
3 out for school or some other special -- you know, other kinds  
4 of programs. That's been significantly reduced, and we'll see  
5 where that goes going forward.

6 There are other circumstances in which youth are, both  
7 anecdotally and I've tracked some of the incident reports,  
8 placed in their room on what they call emergency behavior  
9 management confinement or administrative confinement as a  
10 cooldown period. That's not documented often on the incident  
11 report itself, and there's no other place where that's  
12 documented, and so it's -- and yet, for example, there's an  
13 incident which -- there will be an incident where it talks  
14 about returning a youth to their room, but there's no  
15 information on the incident report itself on the bottom where  
16 that should be documented. So we don't know how frequently or  
17 often they use any kind of other behavior management isolation  
18 for a short period of time.

19 Q. So paragraph --

20 A. Secondly --

21 Q. Oh, sorry. Go ahead.

22 A. Let me just add -- I'll add one more thing, and that is I  
23 do get the observation logs for the youth on the due process  
24 isolation, and that's helpful when I get them, but there's no  
25 documentation, for example, of being checked by the mental

1 health person, or the incident report itself really doesn't  
2 include any information about, you know, letting the youth out  
3 of their room at some point. So it's not very well documented  
4 that they're able to meet these conditions.

5 Q. Paragraph 83(e) requires that the County "specifically  
6 document and record the use of segregation on youths." Is  
7 that happening?

8 A. Not consistently at all, no.

9 Q. And subsection (f) requires that "a qualified medical  
10 professional or staff member who has completed all training  
11 required for supervising youth must directly monitor every  
12 youth in segregation at least every 15 minutes. Such  
13 observation must be documented immediately after each check."  
14 Is that happening?

15 A. I don't believe so.

16 Q. Why not?

17 A. Well, there's two parts to that. One is the qualified  
18 medical professional. That's never documented, from what I  
19 can tell.

20 The other -- the reference to other staff supervising  
21 youth, completed all training, if we even -- if we assume --  
22 and I think the staff have received -- for the most part  
23 received their basic training.

24 You must check at least every 15 minutes. Those are  
25 recorded on an observation log and are supposed to be taped to

1 the door that the youth is in so that as the staff member goes  
2 to the door, they can look and check and, if need be, go into  
3 the room and check, but, you know, write it right at the time.  
4 All too often you see an observation log that simply is every  
5 15 minutes. It appears that somebody has at the end of the  
6 shift or somewhere during the shift just decided, well, I  
7 guess we have to fill this form out, so I'll put down 12:00,  
8 12:15, 12:30, 12:45, 1:00, 1:15, 1:30, *et cetera*. That's  
9 not -- that's not a reliable record.

10 Q. And you review those logs, Mr. Moeser?

11 A. I do.

12 Q. And just so I understand, the agreement requires  
13 15-minute increment observations on the logs. So what is the  
14 problem with every 15 minutes?

15 A. Well, the problem from my end is the documentation leads  
16 me to believe that that's not being done, that it's simply not  
17 feasible or logical that someone gets it 15 minutes exactly  
18 every -- 24 hours straight. It's just not how it's going to  
19 happen, especially as they have staff shortages and other  
20 things. I can't -- it's hard for me to believe that that's  
21 what's happening.

22 Q. And have you discussed this concern with leadership and  
23 other staff at Henley-Young?

24 A. I have -- I have mentioned it, and I have included it in  
25 my report probably ten times. I would say I have discussed it

1 with them less than that, maybe half a dozen times, usually as  
2 part of an exit interview, exit discussion, and suggest that  
3 they -- that, A, this is a -- again, a supervisor is supposed  
4 to sign off on these every hour. It's hard for me to believe  
5 that's -- a supervisor wouldn't catch that or push that  
6 forward as these are turned in to the quality assurance  
7 manager or someone above that they don't go back, and I think  
8 on one or two occasions, Mr. Dorsey has said to me, "Yeah, we  
9 talked to staff about that," but it doesn't seem to change.

10 Q. Paragraph 83 also provides, "Segregation may be used on a  
11 youth only when the individual's behavior threatens imminent  
12 harm to the youth or others."

13 Are defendants in compliance with that portion of  
14 paragraph 83?

15 A. So I would say especially given the reduction in the use  
16 of what they've called -- in the past called due process  
17 confinements, which are clearly an after-the-fact discipline  
18 tool, if they get those down to zero, which they did in, I  
19 think, December and maybe January as well for that matter,  
20 that's a big step forward. What that doesn't capture are  
21 these other periods of time when, after an incident, youth are  
22 placed in their room for an undetermined amount of time and  
23 there's no documentation.

24 So an incident report says youth were -- you know, "I  
25 escorted the youth to their room" or "Youth on the unit were

1 put down." That's not documented anywhere that I could tell,  
2 and there's no verification of when they go in and when they  
3 go out.

4 Q. So in the type of incident that you were just describing  
5 where youth on the unit are put down, does that mean that  
6 other youths other than the individual with the problem  
7 behavior are also being locked in their rooms?

8 A. Well, I think it happens in -- the impression I get -- I  
9 mean, in reading the incident reports, what you see are  
10 situations in which quite a few youth are involved, and in  
11 that case maybe even most of the kids on the unit might be put  
12 down for a short period of time or a period of time that we  
13 don't know.

14 There's also -- again, given staff shortages, there's two  
15 other scenarios that occur. One is you may -- if there's been  
16 a particularly difficult incident, you may want to have  
17 youth -- move all the other youth in their room and then be  
18 able to bring them out, for example, one by one to question  
19 them, ask them what happened. So that may take a little time.  
20 It might be a youth that wasn't directly involved in a fight,  
21 for instance, or -- ideally you don't want to do that. You  
22 want to find another way to do that, but I would say it could  
23 happen.

24 The other type is given they're short-staffed, there have  
25 been occasions both verbally told to us, to me, and also at

1       least one incident that I read, if there's a ruckus or a code  
2       yellow in Unit A, for instance, you might -- a staff member in  
3       Unit D might have all the residents go to their rooms, lock  
4       them in, and then go assist staff in Unit A, because they're  
5       the only staff available to assist.

6           There are different scenarios in which this happens, none  
7       of which really is documented in a significant way. Verbally  
8       they will say, yeah, we bring kids out as soon as we can. I  
9       don't know if that's the case one way or the other. We -- you  
10      know, some reports seem to reflect a longer period of time,  
11      but there's nothing documented.

12     Q.    What is the harm of isolation on youth?

13     A.    Well, there's any range of things. One is there's some  
14      pretty good research around youth being isolated for any  
15      extended period of time, more than a couple hours really in  
16      terms of sort of their ability to process that isolation, and  
17      they can become actually more agitated and be  
18      counterproductive in terms of changing -- certainly  
19      counterproductive in terms of changing their behavior.

20           There you have the risk, depending on the situation,  
21      anytime youth are in their rooms for disciplinary reasons in  
22      particular -- and this can work both ways. A youth who  
23      isn't -- wasn't in the incident but is stuck in their room  
24      feels like they're treated unfairly and can get upset and  
25      disruptive, maybe even make some sort of self-harm gesture

1 that would be of concern, or youth who were more involved and  
2 agitated, getting them calmed down and being able to bring  
3 them out and work with them is much safer than having them in  
4 a room isolated where they may act out in some other way,  
5 whether it's pounding on the walls or running water or other  
6 behaviors that they -- kids act out often sort of  
7 experimentally when they're angry and will do anything they  
8 can to express their frustration. Sometimes that's certainly  
9 counterproductive to safety of the facility.

10 Q. Mr. Moeser, just returning briefly to the half-time  
11 schedule you referred to, I just want to clarify why that  
12 half-time schedule occurs.

13 A. Related to school, you mean?

14 Q. Yes. Sorry to backtrack briefly.

15 A. Okay. You know, what they tell me is that -- and I have  
16 talked with both the principal and Mr. Burnside, and this has  
17 been an ongoing issue that the principal would like there  
18 to -- and I would argue there should be a staff member in the  
19 classroom with kids while they're in the classroom. That  
20 helps the teacher. If there are behavioral issues, it's  
21 another set of eyes on the youth.

22 If, for example, a teacher is spending some one-on-one  
23 time with a youth, let's say, in a corner, there are things in  
24 the school that kids maybe shouldn't get ahold of, and you  
25 want to have somebody available to watch who can help keep the

1 kids sort of on task. So having a staff member in there  
2 for -- both to prevent incidents or if something does happen  
3 is important. So you need a staff member in each classroom.

4 You then also would want a staff member nearby or in the  
5 hallway or available if needed pretty expeditiously to help,  
6 if needed, to escort -- if a disruption occurs and you need to  
7 escort a youth back to their unit for some reason.

8 So historically, as I -- when I've looked at the staffing  
9 levels, there are not enough staff on a shift for them -- for  
10 there to be four or five staffs associated with the school and  
11 still covering the central patrol, maybe another unit or a  
12 couple other units where the kids are, and so it's -- sort of  
13 just a basic safety supervision standpoint, they have made the  
14 choice to split them and minimize the number of youth in the  
15 classroom area at any one time, minimize the number of staff  
16 that are available, and they can cover.

17 Q. And what do the youth do if they're not -- if for the  
18 half-time -- for the 50 percent of the school time that  
19 they're not actually in the Henley-Young school?

20 A. Well, a couple things. One is teachers do provide them  
21 with various kinds of worksheets, let's say, basic math  
22 worksheet or word search puzzles or things that are, you know,  
23 fairly rudimentary in nature, things you might give your child  
24 to kill some time. May or may not be part of a, you know,  
25 curriculum in some way.

1       I think they do try and give -- you know, try and give  
2 certain kids certain things that are at the appropriate level,  
3 but it's difficult, so they'll give a set of maybe some  
4 worksheets a kid is supposed to work on on the unit.

5       When we were there in 2019 and '20, very few kids were  
6 working on that, and that's kind of the report from staff now  
7 as well, that they basically -- if it takes them an hour,  
8 that's the most a kid will work on it, but it's much more  
9 common they take that largely as free time.

10       And, in fact, at one point Ms. Warfield sort of took the  
11 approach -- it hasn't held up partly because of COVID and  
12 other reasons -- that, well, if they're not going to be doing  
13 schoolwork, let's try and do some group counseling stuff in  
14 the morning and use that time for that. So I think there's  
15 clearly an issue with those are not meaningful academic days  
16 for those youth.

17       Q. So the work that -- just so that I understand, are you  
18 saying that the work that they do on the housing units, is  
19 that work comparable to going to school that day?

20       A. No.

21       Q. And it takes about how long for them to do it?

22       A. I think in Mr. Caldwell's case, he talked about an hour.  
23 Other staff talked about an hour, if they work on it.

24       Q. So how many hours per week does each JCA spend in  
25 school -- in the Henley-Young school with a teacher?

1 A. Well, over the course of two weeks -- because of  
2 alternating days, over the course of two weeks, they would  
3 get -- each JCA would get 330 minutes over the course of two  
4 weeks. The standard is 330 minutes every week.

5 Q. Have you made recommendations regarding the amount of  
6 time youth should be in school?

7 A. I don't -- I don't recall making recommendations other  
8 than pointing out that that's clearly not adequate, both in  
9 terms of quantity and quality. These youth are way behind.  
10 If anything, we should be catching them up and accelerating  
11 their learning, not slowing it down.

12 Q. And when have you pointed out --

13 A. But I don't think -- I don't think I've made any specific  
14 recommendations beyond that. Maybe in the past I recommended  
15 using various software programs so kids could be self-paced  
16 learning, but I don't recall much beyond that.

17 Q. When have you pointed out what you just talked about,  
18 pointing out to leadership that the number of hours is not  
19 sufficient?

20 A. Well, I think the first I would have mentioned it would  
21 have been after the February 2020 visit because we, I think,  
22 observed them not doing much. I don't recall in the interim  
23 period other than asking about it and trying to determine if  
24 that was still the case. I think there were periods where  
25 they tried to do it better. COVID was in that period, which

1 made it difficult as well, but now post-COVID they're  
2 continuing.

3 Q. And have you discussed the number of hours youth are in  
4 school with the leadership at Henley-Young?

5 A. I think, again, other than to sort of note it and put it  
6 in the report, but it's not been a focal point of the  
7 discussion.

8 Q. All right. Mr. Moeser, let's talk about your review of  
9 incident reports, which you said is part of your regular  
10 monitoring activities.

11 In the most recent monitoring period from October 2021 to  
12 about the present -- is that right?

13 A. Yes.

14 Q. Did you review incident reports?

15 A. Yes.

16 Q. And do you review a sampling or all the incident reports  
17 for that period?

18 A. Since early after the October visit, I began requesting  
19 all of the reports weekly. Anne Nelsen from SPLC had been  
20 getting them and -- kind of on a regular basis, and I thought,  
21 frankly, rather than have Mr. Dorsey, you know, try and pull  
22 together special ones for me on a visit, that I might as  
23 well -- he just add me to the e-mail, so roughly since October  
24 I've been getting all of them as well as ones that, again,  
25 Synarus Green may have put on the shared drive, which often

1 I've already had.

2 Q. And about how many incident reports did you receive for  
3 that period?

4 A. About 80. Eighty or 90.

5 Q. And what are the different categories of incidents in the  
6 reports that you reviewed?

7 A. Yeah. The major ones that I kind of look at are  
8 self-harm. So one category would be self-harm, suicidal  
9 incident -- related incidents. Those can range from verbal  
10 expressions of harm or a youth may say something like, you  
11 know, "I'm going to get out of here one way or another. I'm  
12 not going to be here tomorrow," or they may not make a direct  
13 kind of threat, but they may say something. And then on some  
14 occasion, often perhaps with their therapist, they may express  
15 something.

16 So there are a handful of those, but the larger category  
17 are where a youth actually make some sort of active step,  
18 tying a sock around their neck or a bedsheet or something that  
19 could -- could end up in death. That's one category.

20 Contraband of various kinds is another category. That's  
21 three -- the top three would be suicide, contraband, and  
22 various fights or assaultive behavior. Those take up about 60  
23 of the 80, roughly.

24 Q. And what are the other categories?

25 A. Well, I'll look at -- there are some where there's

1 assault on staff, where the assault is with -- toward a staff  
2 member. There have been a few of those. There's some that  
3 they list as -- you know, they'll categorize them as  
4 noncompliant, which is just a way to document that a youth is,  
5 you know, not cooperative with returning to an area or  
6 disruptive in some other way, you know, maybe at school, maybe  
7 in multipurpose room.

8 There are incidents that will get -- at least in my  
9 tracking of them will get designated as a PREA-related  
10 incident that may have some sexual contact or sexual behavior  
11 associated with it. There may be a few others that just don't  
12 seem to fit any category, for example. (AUDIO GAP) would be  
13 an example, just something to document a youth's behavior that  
14 doesn't fit any of the other categories.

15 Q. Earlier we were discussing an incident involving an  
16 officer use of force.

17 A. Yes.

18 Q. Do you review incident reports where that's recorded?

19 A. I do. I mean, that's -- they don't have a use-of-force  
20 particular special report. It's just within the body of the  
21 incident reviews.

22 Q. So of the 80 to 90, you said that one of the top three  
23 categories are suicide attempts or other suicidal ideation of  
24 some sort. Is there a -- about -- do you know about how many  
25 of the 90 or 80 to 90 involved --

1 A. I think about 20 -- about 20. And that's not 20  
2 different youth. I mean, it's not uncommon to have one youth  
3 account for four, five, six of those.

4 Q. And you talked about actual suicide attempts. Were there  
5 any -- are youth at risk of suicide at Henley-Young?

6 A. Yes.

7 Q. You also talked about contraband in some of the incident  
8 reports?

9 A. Yes.

10 Q. What kind of contraband do you see in those reports?

11 A. The largest category is some kind of tobacco, lighting --  
12 a lighter, tobacco products of one kind or another. There  
13 have been -- excuse me -- several with, for example, half a  
14 scissors and then another one with the other half of the  
15 scissors. One references a shank of some kind that a youth  
16 created out of something. So they're mostly -- they're  
17 largely tobacco. There have been a couple incidents of staff  
18 smelling smoke or something obviously has been burning, but  
19 they can't locate what it is.

20 Contraband, there was one incident of a youth being able  
21 to sneak a Chromebook out of school to take back to the unit.  
22 I think -- I'm trying to think if there were any with -- I  
23 don't recall any with drugs. I don't recall any with even  
24 marijuana.

25 Q. When youth have contraband, like tobacco or a lighter,

1 how are they able to get ahold of contraband like that?

2 A. Well, there's no contact visitation going on, so the only  
3 way they could get it is if staff are bringing it in and  
4 allowing them to have it, giving it to them or allowing them  
5 to have it. You could -- there may be a situation where staff  
6 could be careless or something, but they shouldn't be smoking  
7 in there anyway, so it's got to be a staff member that's  
8 bringing it to them or giving it to them.

9 Q. And regarding the risk of suicide at Henley-Young, can  
10 you just elaborate briefly as to why youth at Henley-Young are  
11 at risk of suicide?

12 A. Well, yes. I mean, lots of things going on, but -- so  
13 youth -- one is that a lot of -- you know, a fair amount of  
14 youth behavior is experimental. They have little to no  
15 emotional control. They have little to no appreciation for  
16 consequences of their actions. They are very susceptible to  
17 urgent both risk and rewards, so they have very short-term --  
18 no ability to delay gratification.

19 So you're describing, right, somebody who acts very  
20 impulsively, whether it's out of anger or frustration. They  
21 have -- most often have had experience with a lot of trauma or  
22 adverse experiences in their childhood that increase the risk  
23 of suicidal behavior. They have -- so they're just -- they  
24 have -- you know, a significant -- a significant number of  
25 them have diagnosed mental health issues and they're on

1 medications. So they're in a very high-risk category to start  
2 with in an environment that, if not properly managed, really  
3 exacerbates those risks, like being isolated in a room, for  
4 example, especially being isolated in a room when they don't  
5 think they should be, conflicts with other youth where they  
6 get frustrated.

7 They don't think of a -- you know, their only way out is  
8 to -- it's either a meaningful sort of suicide threat or it's  
9 meant to sort of express their frustration in some way. So  
10 they'll take a sock or a shirt or part of a bedsheet and tie  
11 it around their neck. They'll crawl under the bed and hide  
12 from staff and try and get away from them, and fortunately  
13 there have not been any deaths, although there have been --  
14 there was another -- there was a close call this time, in the  
15 last few months, and prior -- earlier in the year.  
16 Fortunately, staff -- or at least the ones -- reports we get,  
17 staff are seeing them and intervening.

18 Q. And what do you mean by a "close call"?

19 A. Well, I think -- I think by the time they got to the  
20 youth, he was unresponsive and they ended up having to  
21 transport him to the medical facility. I think he was revived  
22 on the way and returned to the facility, but he was apparently  
23 unresponsive on the unit.

24 The challenge with staff, again, short staffing, they  
25 have a policy that requires youth on suicide precaution in

1 some cases to have a one-on-one staff member who has eyes on  
2 them all the time. And there are those sort of periodic room  
3 checks that in some cases are supposed to be done at least  
4 every five minutes for youth on suicide precautions. And if  
5 they're short of staff, that increases the risk. So there are  
6 things that increase the risk of a -- for a volatile and  
7 impulsive population.

8 Q. I'd like to switch gears and talk about some of the  
9 incident reports.

10 MS. VERA: Could we get PX-45 up, please?

11 BY MS. VERA:

12 Q. Mr. Moeser, this is titled "Unusual Incident Report."

13 A. Yeah.

14 Q. You see where it says the date of occurrence is 11/23/21?

15 A. Yeah. Yes.

16 Q. Is this an incident report that you are familiar with?

17 A. Yes.

18 Q. Can you briefly describe the nature of this incident?

19 A. So I think this was an incident -- I believe was one in  
20 which quite a few youth on the unit became engaged in some  
21 disruption or fighting of some kind, and you can see in this  
22 report that -- I believe there were a couple staff members who  
23 were in training that came to assist and they -- and this is  
24 example where they say residents were put up, meaning they all  
25 went back to their room, or they were all placed in their room

1 for some period of time. We don't know how long.

2 MS. VERA: Your Honor, I'd like to -- I move to admit  
3 PX-45 into evidence.

4 THE COURT: Any objection?

5 MR. MORISANI: No, sir.

6 THE COURT: PX-45 will be received into evidence.

7 (Plaintiff's Exhibit 45 entered.)

8 BY MS. VERA:

9 Q. And, Mr. Moeser, do you see where it says that this --  
10 the YCP says that he was called to Walter Payton for a  
11 disturbance call?

12 A. Yes.

13 Q. And it says all the residents were trying to fight one  
14 resident?

15 A. Yes.

16 Q. And it says "Still myself and SYCP Marshall told YCP  
17 McGee to put everyone up."

18 Is that what you were just reading from?

19 A. Correct. I think both those -- I believe, if I'm  
20 remembering this one right, both staff were in a training  
21 program and directed the staff -- Youth Care Professional  
22 McGee to just lock everybody up.

23 Q. And who wrote this page, this report?

24 A. This was written by Officer -- Senior Youth Care  
25 Professional Collins.

1 Q. I'm turning to page 2. And is this witness statement  
2 written by another employee?

3 A. Yes. This is the other supervisor who I think was in the  
4 training as well and responded to the unit.

5 Q. Okay. And then page 3, please?

6 A. And I should add, as alluded to, the time issues, you'll  
7 notice on Mr. Marshall's report he talked about they should be  
8 in their rooms until the end of class.

9 Q. Okay. Who wrote the witness statement that's on page 3  
10 of this exhibit?

11 A. This is Mr. Caples. He was one of -- at the time one of  
12 the qualified mental health clinicians at Henley-Young.

13 MS. VERA: And finally can we please look at page 4?  
14 This is the last page of the exhibit.

15 BY MS. VERA:

16 Q. Who wrote page 4?

17 A. This was, I believe, the youth that was referred to  
18 earlier as having been, you know, assaulted, picked on by  
19 other youth on the unit. They often may ask -- frequently  
20 will ask a youth to write a statement of some kind, and this  
21 is what it is.

22 Q. Does this incident report include a report by the officer  
23 who apparently was stationed on the unit where this incident  
24 occurred?

25 A. It does not.

1 Q. Was anyone supervising the pod? Can we tell from these  
2 reports?

3 MR. MORISANI: Objection.

4 THE COURT: Hold on before you answer, Mr. Moeser.

5 What's your objection?

6 MR. MORISANI: It calls for speculation. I don't know  
7 if there's any way that he would know that answer.

8 BY MS. VERA:

9 Q. Can we tell from these reports which YCP was supervising  
10 the pod?

11 A. We can tell that Officer McGee was supposed to be  
12 supervising the pod.

13 Q. And how can you tell that from the report?

14 A. Because in the earlier report, you see the supervisors  
15 coming in and telling Mr. McGee to put the youth up. So  
16 Mr. McGee was the YCP for that pod.

17 Q. And do the reports describe Mr. McGee taking action in  
18 light of the incident?

19 A. No.

20 Q. From these reports do you believe adequate supervision  
21 was in place?

22 A. No. And I would only say that because -- I mean, in part  
23 based on the youth's statement but also Mr. McGee, clearly  
24 being assigned to that unit, should have been the one to write  
25 an incident report to start with, and the other two would have

1      been essentially witness or collateral statements. The fact  
2      that he did not, that's certainly not adequate performance,  
3      you know, whether or not he was on the unit, either way.

4      Q.     Can we go back --

5      A.     Obviously he's the one -- he's apparent- -- he's  
6      obviously the one that made the call for assistance, and  
7      that -- there should be report from him as well.

8                    MS. VERA:   Can we go back to page 2, please?

9                    BY MS. VERA:

10        Q.     Mr. Moeser, where in the unit did this assault occur?

11        A.     Say that again.

12        Q.     Where in the unit did this assault occur?

13        A.     I think this -- I think this is the one where the youth  
14        said that he had -- he was -- he was in his room or around his  
15        room, but he was in his room, I believe. They went into that  
16        room, and that's where they were bothering him, bullying him,  
17        you know, telling him they wanted their snacks, that kind of  
18        thing. So it was in his room where much of the incident  
19        occurred.

20        Q.     Now, the date of this report is November 23, 2021.

21        A.     Yes.

22        Q.     The report in this part of the report identifies that as  
23        a Tuesday at approximately 9:45; is that correct?

24        A.     Yes. Correct.

25        Q.     Would that typically be school time?

1 A. Yes. Well, that would be -- right. I mean, the school  
2 time for those that are in school, but it's theoretically work  
3 time on the unit for the youth that are not in school.

4 Q. And I don't think we covered this when we were discussing  
5 the A/B school schedule. Who supervises the youth when  
6 they're doing the schoolwork on the units?

7 A. The youth care professional would be responsible for, you  
8 know, sort of making sure the youth have their packet. I  
9 think the teacher brings them, but the youth care professional  
10 then is responsible for supervising the youth, encouraging  
11 them to do the work.

12 In the best of all worlds, I think there are some staff  
13 who try and help youth with some of the things if they don't  
14 understand something. But it's the youth care professional  
15 that direct who's doing that.

16 Q. Mr. Moeser, in your experience, are -- how are youth able  
17 to go into another youth's room when they're on a unit  
18 together?

19 A. Well, my -- certainly I think the proper procedure -- and  
20 I'm -- and I'm told by staff, by leadership there, the proper  
21 procedure is when youth are out of their cells -- what you  
22 would do is bring youth out of their cells or their rooms for  
23 the day or for a significant period of time. You'd bring them  
24 out for school. You bring them out to go to recreation.  
25 Whatever you bring them out to do, you would then shut their

1 room so they cannot go in and out of their rooms so that this  
2 kind of stuff can't happen.

3 And that's even in a situation where you may even have a  
4 better-aligned facility, but at Henley-Young the rooms are all  
5 out in the open. There's no reason they shouldn't be locked  
6 once the kids are out for the morning for whatever -- if  
7 they're supposed to be doing work on the unit, they should not  
8 be able to go in and out of the rooms.

9 I would -- I would want to -- if a youth needed something  
10 out of the room or for school or for working on something or  
11 they forgot their glasses or who knows what, a legitimate  
12 purpose, I would then go open the room, let them get what they  
13 need, and come back out, then lock the room after.

14 MS. VERA: Can we please pull up PX-46?

15 BY MS. VERA:

16 Q. Mr. Moeser, is this an incident report for a fight on  
17 October 26, 2021?

18 A. Yes.

19 Q. Are you familiar with this incident?

20 A. Yes.

21 Q. Can you briefly describe what happened here?

22 A. So this is an incident where, as it says on there, youth  
23 were at -- some were working on their schoolwork and one  
24 resident was getting shoes from another room and sort of in  
25 and out of the area and that the staff member noticed sort of

1 a resident, as he says, head nod towards another youth and  
2 they began punching a third resident, a third youth, who  
3 was -- my understanding was at the table working on  
4 schoolwork.

5 So it was again, you know, youth milling around a little  
6 bit, and I think -- I think, as I recall this incident, one or  
7 two of the assaulting youth expressed that this other youth  
8 had been bullying them or picking on them earlier and that was  
9 why they (AUDIO GAP) --

10 Q. And what's the date of this incident report?

11 A. I think -- it looks like 26th of October.

12 Q. And is that --

13 A. It's a little small, but yes.

14 Q. Do you see where it says -- the youth care professional  
15 writes that they were "monitoring male residents on Ossie  
16 Davis B-Pod while residents were doing schoolwork on the  
17 unit"?

18 A. Yes.

19 Q. What does that indicate to you?

20 A. Well, that just means that that group of youth were not  
21 in the classroom, obviously, and that at least some of the  
22 youth were either -- probably some of the youth were doing  
23 work at the tables.

24 Q. The report also, as you noted, indicates that the youth  
25 were wandering around the unit and getting their shoes out of

1 rooms. Why were they able to do that?

2 A. You know, again, the doors obviously were left open. You  
3 know, that's -- I mean, the typical routine would be get all  
4 your stuff, come on out, lock your door. Doors should not be  
5 left open for youth to wander in and out.

6 Q. All right. Was the YCP in this instance providing  
7 adequate supervision?

8 A. It looked -- on this one, as I read it, it looked like he  
9 was there. He was engaged and intervened as soon as he could.  
10 As soon as the other youth attacked, I mean, you could see  
11 that he was observant enough to notice some kind of apparent  
12 signal from one to the other. Whether he could have --  
13 whether he could prevented it or not, it's hard to tell, but  
14 there was obviously something that led to this. But it looked  
15 like he was fairly observant.

16 Q. Is there any after-action report or documentation here  
17 indicating an assessment of how this fight came about?

18 A. I think -- if I remember, this is one where I think the  
19 clinicians, maybe both clinicians, met with -- each of the  
20 youth there are assigned to one of two clinicians, the  
21 qualified mental health people, and now there's only one on  
22 staff, so that's a problem. But nevertheless, at this time  
23 there were two.

24 I believe this is the incident in which each of them  
25 spoke to their assigned clinician, who wrote additional

1 reports, and I think one of them indicated that at least one  
2 of the youth that did the assaulting was frustrated and felt  
3 he had been bullied or bothered by the third youth earlier in  
4 the day or the day before. I don't know. There was some kind  
5 of prior conflict between those youth.

6 MS. VERA: Let's move on to PX-47, please.

7 BY MS. VERA:

8 Q. Mr. Moeser, I'd like to talk about a couple incidents  
9 involving sexual misconduct.

10 A. Yes.

11 MS. VERA: Your Honor, I apologize. Did I move to  
12 admit Plaintiff's Exhibit 46?

13 THE COURT: Any objection from the defendant?

14 MR. MORISANI: No, sir.

15 THE COURT: PX-46 will be received into evidence.

16 (Plaintiff's Exhibit 46 entered.)

17 MS. VERA: Thank you. My mistake.

18 So we can move on to 47.

19 BY MS. VERA:

20 Q. Mr. Moeser, are you familiar with this incident dated  
21 October -- the incident report dated October 8th, 2021?

22 A. Yes.

23 Q. And how is this incident report categorized at the top?

24 A. "Assault." "Report of an Assault."

25 Q. And did this incident involve a sexual abuse or

1 misconduct allegation among the youth?

2 A. Yes.

3 Q. Can you briefly describe what happened in this incident?

4 A. So it gets a little tricky when there's so many  
5 redactions in there, but essentially my recollection is that  
6 at some point in the afternoon -- so this is around 3:00. So  
7 Mr. Caples, who wrote this report, is one of the mental health  
8 therapists, and a youth reported to him that he had been  
9 earlier that day -- excuse me -- earlier that day had been  
10 grabbed by another resident. A couple other residents kind of  
11 stood by, but this youth -- this youth says he was dragged  
12 into his room earlier that day, that he was -- that the  
13 youth -- that the assaulting youth pulled his pants down,  
14 started ripping his underwear, touched his penis, "private  
15 parts" in this case, it says, and that the YCP on duty did not  
16 attempt to stop it.

17 Eventually, as I recall, either the -- I don't know if it  
18 was the initial two, but a couple other youth came in and sort  
19 of pulled the assaulting youth off of him.

20 Q. And based on your experience, Mr. Moeser, should a staff  
21 member be available to intervene in an incident like that?

22 A. Absolutely.

23 MS. VERA: Your Honor, the United States moves to admit  
24 PX-47.

25 THE COURT: Any objection from the defendant?

1 MR. MORISANI: No objection.

2 THE COURT: PX-47 will be received into evidence.

3 (Plaintiff's Exhibit 47 entered.)

4 BY MS. VERA:

5 Q. Mr. Moeser, did you discuss this incident with  
6 Henley-Young employees?

7 A. I did.

8 Q. Who did you discuss it with?

9 A. I think both Mr. Burnside, who was the operations  
10 manager, and Ms. Foster, who is the PREA -- designated PREA  
11 coordinator.

12 Q. And do you know if there was further review or  
13 investigation beyond this report?

14 A. Yes. In talking with Mr. Burnside, he indicated that he  
15 reviewed the video or the cameras associated with this unit.  
16 Of course, he could not see into the -- there are not cameras  
17 in the youth rooms themselves, but he could see the youth  
18 being dragged into the unit and who was involved. He could  
19 see that happening. He could see -- as I recall, Officer  
20 McGee was on the unit sitting at a table and did nothing.

21 Also then this was referred to Ms. Foster as the PREA  
22 coordinator. She did some further questioning, I believe.  
23 I'm not sure who she all spoke to, but she ended up concluding  
24 that this was a founded -- agreed with the complaint this had  
25 happened in talking with, I think, some other youth and the

1 victim.

2 Q. And in an incident like this, was there any systemic  
3 after-action review?

4 A. Given the -- there's two aspects to that. One is there's  
5 kind of the -- the PREA report was filed by Ms. Foster. So  
6 her aspect of it in terms of whether there was sexual contact  
7 was followed up on, and she did do a report.

8 In terms of the incident, you know, grabbing the youth,  
9 dragging him into a room, regardless of what happened in the  
10 room, the lack of staff response, there was no after-action  
11 report or further investigation that I received. And I think  
12 I asked -- I know I asked for something. I think I even might  
13 have asked for had Mr. McGee written an incident report and  
14 have not received -- and I asked for that and have not gotten  
15 anything, so I don't believe he did.

16 So there was no -- sort of no follow-up investigative  
17 report on the other aspects of the behavior other than the  
18 PREA piece, at least documented in any way.

19 Q. Yes.

20 MS. VERA: And I'll just proffer for the record that  
21 PX-47 is one page, so it's accurate that there is not a report  
22 included by the YCP on duty.

23 BY MS. VERA:

24 Q. Mr. Moeser, earlier you testified about the type of  
25 supervision that is appropriate when youth have some amount of

1 free time or freedom to move around.

2 A. Sure.

3 Q. Was appropriate supervision in place here?

4 A. No.

5 THE COURT: Let me make sure I'm correct on something.

6 PX-47 is just one page?

7 MS. VERA: That's right, Your Honor.

8 THE COURT: I'm sorry?

9 MS. VERA: Yes, Your Honor.

10 THE COURT: Is it -- well, I heard you say you're  
11 proffering that it's only one page. Should it be more than  
12 one page?

13 MS. VERA: No, Your Honor. Mr. Moeser had mentioned  
14 that he did not believe that there was another report written  
15 by the officer on duty and that the report we had -- the  
16 report that is PX-47 was written by a different staff member,  
17 and I was just noting for the record that that was accurate.  
18 The exhibit does not include a report written by the officer  
19 who was on duty.

20 THE COURT: Okay. Should it -- I guess the question  
21 for me is: Should it have been written by the person on duty?  
22 You could ask Mr. Moeser that question.

23 MS. VERA: Pardon?

24 THE COURT: You could ask Mr. Moeser that question.

25 BY MS. VERA:

1 Q. Mr. Moeser, should there be a report included by the  
2 officer who was supervising?

3 A. Absolutely.

4 THE COURT: Thank you.

5 MS. VERA: Thank you.

6 BY MS. VERA:

7 Q. And when we talk about --

8 A. And -- and -- I would say, and I would argue there should  
9 be some kind of investigative or after-action report written  
10 by Mr. Burnside or Mr. Crisler. Well, this wasn't  
11 Mr. Crisler's time, so...

12 Q. And with regard to those -- those points about adequate  
13 documentation and report writing and after-action reports, is  
14 that something you've recommended?

15 A. I have mentioned it on several occasions. I think I have  
16 included it in my monitoring reports at least a couple times  
17 and will again on this next one. It's -- I'm not able -- I'm  
18 not getting documentation about any action taken, you know,  
19 following that, and whether it's a personnel investigation  
20 kind of report or a report -- sort of critical incident  
21 debriefing of some kind, there should be documentation of that  
22 in whatever form is proper at the time.

23 Q. What is the value of such a corrective action report?

24 A. Well, first of all, it documents that they're actually  
25 doing something, some kind of follow-up. So, for example, a

1 critical incident debriefing process or something where people  
2 get together and say, here's what we did right; here's what we  
3 did wrong; here's what we could have done better; here's how  
4 this incident occurred; here's perhaps even something we could  
5 change in policy and practice. Having that in any particular  
6 case is very helpful.

7 As an administrator, then you also want to look for  
8 patterns that might occur over time. So you may begin to  
9 see -- you may -- by virtue of doing these -- doing the  
10 debriefings or whatever, you'll see patterns that emerge that  
11 speak to policy or things you need to change in the facility.

12 They also -- those kind of debriefings also become -- can  
13 be used as a training tool both at the time for staff that are  
14 involved or subsequent training where you can come in and say,  
15 "Here's an incident that happened. Here's the kind of  
16 information we gathered after this. This tells us that we  
17 should be doing X, Y, Z differently than we're doing." So  
18 there's multiple reasons to have it, the first of which is you  
19 just need to be able to say you did some kind of legitimate  
20 administrative management review.

21 Q. All right.

22 MS. VERA: Let's pull up PX-29, please.

23 BY MS. VERA:

24 Q. Mr. Moeser, is this the same type of supervisor checklist  
25 we were discussing earlier?

1 A. Yes.

2 MS. VERA: Let's turn to the second page of the  
3 exhibit, please.

4 BY MS. VERA:

5 Q. Mr. Moeser, are you familiar with this incident report?

6 A. Yes.

7 Q. Can you briefly describe what occurred here?

8 A. Yes. This is an incident, again reported to a therapist,  
9 in this case Ms. Frelix. Now Mr. Caples is one of her -- one  
10 of the girls during a session reported sort of a confrontation  
11 she had with another youth while they were in visitation on  
12 that prior Saturday. So this would have been Monday that the  
13 session was occurring, and then she reported what had  
14 happened.

15 She relayed that this other girl had been bothering her,  
16 touching her, sitting on her lap, you know, some things like  
17 that, and that she finally got frustrated and grabbed the  
18 offending girl around the neck, in this case says -- said she  
19 got scared because she saw that resident -- that youth's eyes  
20 roll back in her head and she let go.

21 So this happened in the visitation area. No staff  
22 report. Clearly in this case no staff available is referenced  
23 here as well, and it's completely unclear how they could end  
24 up in the visitation area unsupervised, again, other than the  
25 staff shortage, which can be particularly difficult on

1       weekends because there's less structured time as well and  
2       staff take off weekends if they can, and in this case  
3       apparently they were allowed to be in the visitation area  
4       without supervision.

5       Q.     And just to be clear, this is an incident report  
6       involving sexual misconduct?

7       A.     The discussion -- you know, she's not real specific about  
8       where -- you know, what touching or what she was touching, but  
9       I -- so I guess I can't answer exactly what the nature of the  
10      contact was.

11      Q.     Okay.

12      A.     These go to Mr. Burnside, who makes a determination  
13      whether to refer it to Ms. Foster for a PREA investigation. I  
14      don't believe he did in this.

15            MS. VERA:    Can we look back on page 1, please.   We  
16      don't have to zoom in.

17      BY MS. VERA:

18      Q.     So who signed off on this report?

19      A.     Mr. Dorsey. So Mr. Dorsey, who is the quality assurance  
20      manager.

21      Q.     And he checked off all --

22      A.     So he would -- yeah. He would be -- when these are done  
23      typically by some -- he has some responsibility for the youth  
24      support specialists and the clinicians in terms of  
25      administratively, so that's why he's signing off as if he

1 were -- essentially were the supervisor of Mr. Caples or  
2 Ms. Frelix in this case.

3 Q. And is -- are there any comments or follow-up indicated?

4 A. No.

5 Q. Do you think this constitutes a meaningful review of the  
6 report itself?

7 A. I guess I don't know the answer to that. I think it  
8 would certainly be helpful to have some additional comments  
9 related to -- for example, you know, investigated why they  
10 were alone in the visitation area or sort of what were some of  
11 the factors that contributed to it or in this case, yes or no,  
12 whether it was referred for a PREA investigation. So I guess  
13 I would say it's not adequate, should be done better.

14 MS. VERA: Your Honor, the United States moves to admit  
15 PX-29.

16 THE COURT: Any objection?

17 MR. MORISANI: No, Your Honor.

18 THE COURT: PX-29 will be received into evidence.

19 (Plaintiff's Exhibit 29 entered.)

20 MS. VERA: So, Your Honor, I'm close here, but I  
21 recognize that it's Friday and the Court had other -- the  
22 Court had mentioned other things that Your Honor wanted to  
23 discuss. I'm happy to continue. I just wanted to pause for a  
24 moment just in case.

25 THE COURT: How much longer do you think you have with

1 this witness? How many more exhibits?

2 MS. VERA: I think 30 minutes, Your Honor. It could be  
3 less, but I don't want to overpromise.

4 THE COURT: I guess we'll stop for the day. I mean,  
5 it's late. I mean, we can -- let me -- I'm looking -- we're  
6 not going beyond 5:00, so we may as well stop now.

7 MS. VERA: That's fine. Thank you, Your Honor.

8 Thank you, Mr. Moeser.

9 THE COURT: Mr. Moeser, thank you for being with us  
10 today. Yeah, this is a -- as I said, you-all have done a  
11 great job this week. So we will allow the Government to put a  
12 pin in it right there and we'll pick back up on this on  
13 Monday.

14 There are -- oh, I'm sorry. Not Monday. Not Monday.  
15 If you show up Monday, man, that door will be locked outside.  
16 The whole courthouse will be dark. The Government lawyers  
17 knew I didn't mean Monday. No, we'll start up Tuesday  
18 morning. I'm sorry.

19 The Court is -- the Court received a filing from one of  
20 the interested parties about having access to the sealed  
21 records, and initially that filing was submitted under seal,  
22 but I decided I would give the lawyers -- well, it was  
23 submitted *in camera*, I guess, under seal, and I gave the  
24 parties an opportunity to respond.

25 The request -- part of the request, part A of the

1 request, was to allow the interested parties -- allow the  
2 particular interested party who filed the motion to have  
3 access to the sealed records, the sealed documents that are  
4 sealed in this case, and I think from -- each party in this  
5 matter, each objected to that. So the Court is going to deny  
6 that request. I don't think having access to the sealed  
7 records in this case -- we'll do a text order or something,  
8 but I wanted you to know I'm denying that aspect of it.

9 And the interested party, I think, is in the courtroom,  
10 and I did not advise her, but if there's anything else the  
11 interested party wishes to say on the second portion of that  
12 motion; that is, that they be allowed to participate in this  
13 matter virtually while this trial continues next week, I don't  
14 think the Government spoke to that aspect of the motion. I  
15 think the defendant said you can if you want to or did not  
16 oppose it.

17 But, Ms. Jones, if you wish to add anything else to the  
18 request, you may. I do have a couple of questions, if you  
19 will, about that particular request. You can come forward.

20 MS. JONES: Good afternoon, Your Honor. Thank you.

21 THE COURT: Good afternoon. And for the record, you  
22 are?

23 MS. JONES: Leslie Faith Jones. I'm with the Southern  
24 Poverty Law Center, and I'm here on behalf of interested  
25 parties JH (AUDIO GAP), and we are interested parties in the

1 case of JH versus Hinds County.

2 THE COURT: Now, the request is that you-all  
3 participate virtually through Zoom for at least some portion  
4 of the rest of the trial, I think. Is that the case?

5 MS. JONES: Yes, sir. So given the way that the  
6 proceedings have occurred so far, I made arrangements so I  
7 should be able to be here next week. Now, if you go beyond  
8 that, I don't want to -- if you're going to grant my motion, I  
9 don't want to give up a chance to have a Zoom link, but next  
10 week I will be at my --

11 THE COURT: Oh, next week?

12 MS. JONES: Yes.

13 THE COURT: We expect to be -- possibly be through next  
14 week. Because one of the questions that I would have had is,  
15 you know, are there other lawyers who could actually  
16 participate? The defendants have somewhat received the sting  
17 of that earlier motion with respect to that and got  
18 Mr. Shelson involved at the very last minute because, you  
19 know, we had to move forward and Mr. Siler could not be here.  
20 So is there any other lawyers in the SPLC who could actually  
21 be here and do whatever that is -- whatever you're doing with  
22 respect to, you know, the participation that you're doing now?

23 MS. JONES: So I'm the only one that can be here in  
24 person. The other couple of people would have to do virtual  
25 participation. So since we didn't have that option, we just

1 made other arrangements.

2 THE COURT: No other paralegal or anyone -- I mean, I'm  
3 not suggesting that a paralegal is equivalent to you and what  
4 you're doing.

5 MS. JONES: I understand. It's not a problem. In this  
6 moment I didn't have anyone on deck who could come, so the  
7 virtual participation was for myself and another. If you're  
8 open to granting that, then I can share that information, but  
9 I will be here.

10 THE COURT: No. At this point I'm going to deny  
11 without prejudice that portion of it, the request to  
12 participate virtually, deny without prejudice since you're  
13 going to be here next week, and you can bring it back up if  
14 this matter goes forward through the following week.

15 MS. JONES: Yes, sir.

16 THE COURT: Okay.

17 MS. JONES: I do have a question for clarification.

18 THE COURT: Yes.

19 MS. JONES: And that's with regards to access to the  
20 transcripts and the nonsealed evidence that's been provided  
21 with the exhibits. That's really the information I was  
22 seeking.

23 THE COURT: You will -- oh, the nonsealed evidence --

24 MS. JONES: Yes, sir.

25 THE COURT: -- and the transcripts?

1 MS. JONES: Yes, sir.

2 THE COURT: You'll have to work with the -- I mean,  
3 right now I think the parties -- with respect to the  
4 transcripts, you can work with the court reporter.

5 MS. JONES: Yes.

6 THE COURT: And like any other person, you will be able  
7 to purchase or whatever it is that you have to do --

8 MS. JONES: Yes.

9 THE COURT: -- with respect to the transcripts, but  
10 work with the court reporters on that.

11 MS. JONES: Yes, sir.

12 THE COURT: But whatever information is on the docket,  
13 you already have access to, I think. Whatever public  
14 information, you will have access. Right now the exhibits  
15 have not been uploaded, I don't think, because the trial is  
16 still going along.

17 MS. JONES: Yes. Which is why we filed the motion, to  
18 see if we can access that in real time as opposed to having to  
19 wait.

20 THE COURT: To have access to what?

21 MS. JONES: To the exhibits.

22 THE COURT: The exhibits are generally put in the  
23 record. Work with Ms. Summers. I don't think we use the --  
24 we put the -- we make the exhibits available to the public  
25 until at the close of the trial.

1 MS. JONES: Yes, I understand. And so as interested  
2 party, we were asking if we could have access before that  
3 time.

4 THE COURT: Okay. That's putting a little bit of  
5 burden on my staff. You could probably check with the parties  
6 and see if you can get a copy of their exhibits.

7 MS. JONES: Sure. I can do that. I just -- I asked  
8 and --

9 THE COURT: They're free to give you whatever.

10 MS. JONES: Okay.

11 THE COURT: They're not barred from giving you anything  
12 they wish for you to have other than sealed exhibits.

13 MS. JONES: Yes, sir. No, I understand sealed exhibits  
14 are not accessible, and that's not a problem. When I asked, I  
15 was told to file a motion. So I was just following  
16 instructions --

17 THE COURT: Oh, okay. Okay. Sure.

18 MS. JONES: -- to make sure we're not doing anything  
19 that's not acceptable.

20 THE COURT: Right. And with respect to access to the  
21 transcript, talk to the court reporter about how that access  
22 is gotten by you.

23 MS. JONES: Yes, sir.

24 THE COURT: By the interested party, if you will.

25 MS. JONES: Thank you.

1                   THE COURT: Thank you.

2                   Now, with respect to the other issue, I know we got --  
3 we'll have to finish with Mr. Moeser and, you know, the  
4 defendants still at least have one other witness. I'm not  
5 sure -- I suspect that Ms. Simpson will testify at some point  
6 in time, and we know how long Mr. Parrish was, we know how  
7 long Mr. Moeser was, and we know how long Mr. Dudley was. So,  
8 you know, the idea of the Government finishing up on Tuesday  
9 is probably not likely. I mean, so -- so I guess in saying  
10 that, the defendant -- you know, still give them 24 hours'  
11 notice of -- or more of who your witnesses will be the  
12 following day or whatever. But I do have this one other  
13 question that the parties will probably have to spend some  
14 time on over this weekend.

15                  I've been looking at -- in my view, y'all correct me if  
16 I'm wrong, but we're operating as if it is. In my view, the  
17 consent decree is still in place. The stipulated order is  
18 still in place. What we have here is that the defendants have  
19 moved to terminate that particular order.

20                  The detention center for right now is without a jail  
21 administrator, I think. You have an interim person; is that  
22 correct? I understand the interim person is Mr. Simon. I  
23 think that's what I've been hearing from the evidence.

24                  MR. SHELSON: That's correct, Your Honor.

25                  THE COURT: Okay. I don't know -- and I've been -- I

1 know at the status conferences, the County has represented  
2 that they are in the process of at least putting a person,  
3 whatever the status is between interim and permanent, I guess.  
4 Acting. Acting. I believe that's the word you-all told me.

5 MR. SHELSON: Yes, sir. It's Chief Simon as we speak.  
6 Frank Shaw is the person who Mr. Hall identified to the Court,  
7 I think, on the last status conference before trial, and  
8 Mr. Shaw will be at the facility on Monday.

9 THE COURT: This is the question that I have. The  
10 consent decree, paragraph 38 of the consent decree identifies  
11 the experience that a person is to have, and I just want to  
12 make sure that the persons who are acting as jail  
13 administrators or who will serve as jail administrator  
14 actually meets the qualifications that are set forth in the  
15 consent decree or are set forth in what has been represented  
16 by the monitors and the parties all along, because we had  
17 Ms. Rushing there when I first picked up this case. Then  
18 there was Officer, or whatever his title was, Felder, and I  
19 think, looking at the status report, Mr. Felder, in the words  
20 of, I believe, the monitor's Docket No. 79 at 22, "Felder had  
21 the requisite experience and qualifications necessary. Felder  
22 had education, experience, and supervisory experience that --  
23 of which Ms. Rushing did not have."

24 Now, we've talked about over the course of the day and  
25 we've talked about on the status conferences all along the

1 experience that Major Bryan had, and I think everybody, at  
2 least those persons who were responsible for hiring Major  
3 Bryan, considered that she had the appropriate experience. So  
4 I want to make sure what the parties deem the appropriate  
5 experience is under paragraph 38 of the consent decree and how  
6 the parties have discussed or how the parties have directed  
7 that since 2016.

8 I mean, what type -- what is that experience that -- I  
9 know it says five years of supervisory experience or five  
10 years in experience. I do know that there is something much  
11 different than jail and prisons. There is a difference, and  
12 so we need to make sure that someone with experience is  
13 prepared to lead the detention center and we will -- the  
14 parties need to make sure that there is somebody there,  
15 because that detention center is not going anywhere. It still  
16 has inmates -- excuse me, it still has detainees.

17 So -- and if there is no one there with the requisite  
18 experience, what does that do with the status of the -- the  
19 County being in compliance or out of compliance, and if that  
20 is an issue that we'll have to get to next week, then we'll  
21 take the time to get into that issue next week, but I do --  
22 I'm not giving anybody homework. Definitely giving the  
23 parties something to think about.

24 And as I told you when I walked back in today, as I  
25 usually do in every case that I've sat up here before, every

1 motion that I've had, civil, criminal, the case is in the  
2 parties' hands. And as I learned as a very -- even -- as a  
3 very, very young lawyer, I was always told, "I don't want  
4 nobody deciding my fate, jury or otherwise." People -- but  
5 y'all know me. I was always told, "I don't want nobody,  
6 persons on the jury who I don't know, deciding what I must  
7 do," so I encourage the parties to think about where we are.

8 At this point we've had a full week. This is -- this  
9 is why I'm here. There's no problem. We're willing to take  
10 whatever time we need to take to get the cases heard on our  
11 docket. So we do what we have to do. We do what the law  
12 requires, and I would just encourage the parties to think  
13 about where we are in this case with respect to -- where we  
14 are.

15 I mean, Major Bryan has been gone all of this month,  
16 and I don't know if the detention center has -- I don't know.  
17 Maybe Monday the new person will come aboard who has the  
18 requisite skills and experience that the consent decree  
19 require.

20 So that's all that I have. I hope you-all enjoy your  
21 long weekend, and if the lawyers and the monitors are staying  
22 over this long weekend, spend a whole lot of money in Jackson  
23 for us.

24 All right. That is all. Please have a good weekend,  
25 and I'll see you-all Tuesday morning. We'll start up at 9:00.

1 \*\*\*\*\*  
2 \*\*\*\*\*  
3 **COURT REPORTER'S CERTIFICATE**  
4 \*\*\*\*\*  
5 \*\*\*\*\*

6 I, Candice S. Crane, Official Court Reporter for the  
7 United States District Court for the Southern District of  
8 Mississippi, do hereby certify that the above and foregoing  
9 pages contain a full, true, and correct transcript of the  
10 proceedings had in the forenamed case at the time and place  
11 indicated, which proceedings were stenographically recorded by  
12 me to the best of my skill and ability.

13 I further certify that the transcript fees and format  
14 comply with those prescribed by the Court and Judicial  
15 Conference of the United States.

16  
17 THIS, the 19th day of February, 2022.

18 /s/ Candice S. Crane, RPR CCR  
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